

Agency Proposed Budget

The following table summarizes the total executive budget proposal for the agency by year, type of expenditure, and source of funding.

Agency Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	531.37	4.50	8.50	544.37	4.50	8.50	544.37	544.37
Personal Services	25,427,463	3,550,189	379,649	29,357,301	3,661,170	380,349	29,468,982	58,826,283
Operating Expenses	10,626,422	4,137,780	2,012,185	16,776,387	2,177,417	1,982,238	14,786,077	31,562,464
Equipment	1,105,964	240,208	1,390,000	2,736,172	49,984	390,000	1,545,948	4,282,120
Capital Outlay	121,347	13,771	0	135,118	13,771	0	135,118	270,236
Local Assistance	0	200,000	0	200,000	200,000	0	200,000	400,000
Grants	1,384,297	125,000	255,000	1,764,297	125,000	255,000	1,764,297	3,528,594
Transfers	809,421	150,475	5,000,000	5,959,896	167,930	5,000,000	5,977,351	11,937,247
Debt Service	380,807	98,013	0	478,820	98,013	0	478,820	957,640
Total Costs	\$39,855,721	\$8,515,436	\$9,036,834	\$57,407,991	\$6,493,285	\$8,007,587	\$54,356,593	\$111,764,584
General Fund	18,140,525	1,978,710	6,985,869	27,105,104	1,897,171	5,971,458	26,009,154	53,114,258
State/Other Special	20,004,366	6,292,327	2,150,965	28,447,658	4,369,544	2,136,129	26,510,039	54,957,697
Federal Special	1,710,830	244,399	(100,000)	1,855,229	226,570	(100,000)	1,837,400	3,692,629
Expendable Trust	0	0	0	0	0	0	0	0
Total Funds	\$39,855,721	\$8,515,436	\$9,036,834	\$57,407,991	\$6,493,285	\$8,007,587	\$54,356,593	\$111,764,584

Agency Description

The Department of Natural Resources is tasked to:

1. Manage the state trust land resource to produce revenues for the trust beneficiaries while considering environmental factors and protecting the future income-generating capacity of the land
2. Protect Montana's natural resources from wildfires through regulation and partnerships with federal, state, and local agencies
3. Promote stewardship of state water, soil, forest, and rangeland resources, and regulate forest practices to protect water quality
4. Provide administrative, legal, and technical assistance and financial grants to the conservation districts and provide natural resource conservation and development programs
5. Resolve water resource use conflicts, manage state water projects, investigate water use violations, ensure dam safety compliance, and provide water adjudication support to the Water Court
6. Provide administrative support to the Reserved Water Rights Compact Commission to negotiate the settlement of reserved water rights claims of Indian Tribes and federal agencies
7. Provide administrative support to the Board of Oil and Gas Conservation to assist in conservation of oil and gas and prevention of resource waste through regulation of oil and gas exploration and production

The State Board of Land Commissioners, comprised of the Governor, State Auditor, Attorney General, Superintendent of Public Instruction, and Secretary of State, exercise the general authority, direction, and control over the care, management, and disposition of state lands under its administration. The department director is the chief administrative officer of the board.

Agency Highlights

Department of Natural Resources and Conservation	
Major Budget Highlights	
◆	The department is requesting present law adjustments totaling \$8.4 million over the biennium of which \$2.0 million are general fund requests
◆	The largest request seeks funding for repairs on state owned dams

Major LFD Issues	
♦	The executive is requesting \$30.5 million in two supplemental appropriation bills <ul style="list-style-type: none"> • HB 15 will be \$5.0 million for FY 2006 fire costs • HB 3 will include \$25.0 million for FY 2007 fire costs and \$0.5 million to repay diversions from land trusts
♦	Alternative funding mechanisms for funding fires suppression may exist
♦	The results of HJR 36, the RIT study, may affect appropriations in RIT funds
♦	Constitutionality of the manner in which trust land administration is funded is in question

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the legislature may wish to review the following:

- Goals, objectives and year-to-date outcomes from the 2007 biennium
- Goals and objectives and their correlation to the 2009 biennium budget request

Any issues related to goals and objectives raised by LFD staff are located in the program section.

2005 Legislative Initiatives

The legislature approved two major initiatives during the 2005 session. Those initiatives and subsequent outcomes are summarized below:

- Funding to expedite the water adjudication process was provided through imposing a water right fee. The Environmental Quality Council reviewed progress at each regularly scheduled meeting. While there are some data base issues remaining, the work is being completed.
- Additional general fund authority was provided to increase initial attack and county co-op resources to strengthen fire fighting resources. During FY 2006, DNRC deployed an additional 15 type-6 wild land fire engines and posted an initial attack rate of 96 percent. The department is on track to deploy an additional 15 engines in FY 2007. DNRC's initial attack rate for FY 2007 is currently at 94 percent.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the executive. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding					
2009 Biennium Executive Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
21 Centralized Services	\$ 4,720,054	\$ 1,407,998	\$ 183,000	\$ 6,311,052	6%
22 Oil & Gas Conservation Div.	-	4,760,909	-	4,760,909	4%
23 Conservation/Resource Dev Div	2,875,483	6,871,472	539,556	10,286,511	9%
24 Water Resources Division	14,757,901	10,954,781	398,457	26,111,139	23%
25 Reserved Water Rights Comp Com	1,607,649	-	-	1,607,649	1%
35 Forestry/Trust Lands	29,153,171	30,962,537	2,571,616	62,687,324	56%
Grand Total	53,114,258	54,957,697	3,692,629	111,764,584	100%

General fund supports operating costs across the department. The programs in the Forestry Division and the Reserved Water Rights Compact Commission receive the most general fund support. The agency receives funds from interest derived from the resource indemnity trust for projects and operational support. The grant and loan programs funded by the RIT interest are also managed by the agency. Other state special revenue is derived from fire protection taxes, oil and gas operating fees, forest improvement fees, and revenues retained from state land activities for administration costs.

Federal funds come from a variety of sources such as the Federal Emergency Management Agency, the United States Department of Agriculture, and the Bureau of Land Management.

Agency Narrative

2007 Biennium Fire Costs

The department is responsible for wildland fire suppression, including the financial aspects of assuring costs are covered through appropriate resources. Financial results for FY 2006 and an estimate for FY 2007 are included to provide an overview of the varying costs and available resources for funding fire suppression.

Figure 1 FY 2006 Estimated Fire Costs		
PART 1:		
<u>Actual Fire Costs</u>		
Actual Fire Suppression Costs Paid	\$8,271,807	
Estimated Remaining State Protection Costs	<u>\$30,505</u>	
Paid & Anticipated Obligations		<u>\$8,302,312</u>
PART 2:		
<u>Received and Estimated Reimbursements</u>		
Governor's Emergency Fund (general fund)	(688,022)	
Department of Environmental Quality - Columbus Tire Fire	(55,123)	
Trust Land Management Division - Center Loop/SJ Fires	(7,937)	
Bureau of Land Management	(74,429)	
US Fish & Wildlife Service	(53,495)	
US Forest Service - Fire	(1,477,020)	
US Forest Service -Hurricane	(352,157)	
Bureau of Indian Affairs	<u>(153,525)</u>	
Reimbursements Received:		<u>(\$2,861,708)</u>
USFS-Fire	(320,183)	
USFS-Hurricane	<u>(\$58,151)</u>	
Reimbursements Anticipated:		<u>(\$378,334)</u>
Estimated FY 2006 State Fire Costs		<u>\$5,062,270</u>

Fiscal 2006

Part one of Figure 1 represents the total cost to the Department of Natural Resources and Conservation (DNRC) and the Department of Military Affairs (DMA) for fire suppression efforts for FY 2006. This cost includes the amount owed from the US Forest Service for providing disaster assistance in the aftermath of hurricane Katrina. As of July 2006, the state has paid \$8.3 million to cover suppression costs and has about \$30,000 in costs remaining.

Part two defines the **net** cost of fire suppression incurred by DNRC. Financial assistance for fire costs was provided by a number of entities. The two largest being the US Forest Service for \$1.4 million and the Governor's emergency fund for \$0.7 million (general fund). The department anticipates receiving an additional \$0.4 million from the US Forest Service.

When all assistance is accounted for, total assistance received from other entities is \$ 3.2 million. The net cost to the state is therefore \$5.1 million. The department obtained authority to pay these costs by receiving approval for an appropriation transfer. This resulted in the department transferring \$5.0 million (\$2.5 from the Forestry Division and \$2.5 from the Water Resources Division) from FY 2007 to FY 2006 to meet fire suppression obligations. To restore this authority, the executive has requested a supplemental appropriation in the same amount via HB 15.

Fiscal 2007

Part one of Figure 2 represents the total cost for FY 2007. As of November 8, 2006 the department has paid out \$16 million, an additional \$43.9 million is anticipated for incurred costs, and \$1.0 million has been estimated for spring 2007 fires.

Figure 2	
Fiscal Year 2007 Estimated Fire Costs*	
<u>PART 1:</u>	
<u>FY 2007 Actual & Estimated Fire Costs</u>	
Actual Fire Suppression Costs Paid as of November 8, 2006	\$16,032,075
Estimated remaining costs:	43,968,243
Estimated spring 2007 fire costs	<u>\$1,000,000</u>
Paid & Anticipated Obligations	<u>\$61,000,318</u>
<u>PART 2:</u>	
<u>Received and Estimated Reimbursements</u>	
Governor's Emergency Fund (general fund)	(13,000,000)
US Forest Service	<u>(\$2,000,000)</u>
Reimbursements Received:	(15,000,000)
Federal Agencies	(6,311,320)
Federal Emergency Management Agency	<u>(\$14,979,608)</u>
Reimbursements Anticipated:	(21,290,928)
FY 2007 Preliminary Net Cost to the State	<u>\$24,709,390</u>
FY 2006 Net Cost to the State	5,062,270
Total 2007 Biennium Costs	<u>\$29,771,660</u>
* All cost information is base upon the best available estimates at the time of completion and is subject to adjustment. Cost share fires are constantly in negotiation until final settlement.	

Part 2 of Figure 2 defines the net cost of fire suppression to be incurred by DNRC. The department has received \$13.0 million from the Governor's emergency fund and \$2.0 million from the US Forest Service. Anticipated reimbursements include an additional \$6.3 million from federal agencies and \$14.9 million from the Federal Emergency Management Agency (FEMA). FEMA provided three emergency declarations during the summer fire season. The declarations are date and time sensitive. The department anticipates receiving 60 percent of qualifying costs for the Derby, Saunders, and Emerald Ridge Fires.

After all reimbursements are considered, the anticipated net fire suppression cost for FY 2007 is \$24.7 million. The executive is requesting supplemental appropriation authority of \$25.0 million of general fund in HB 3.

Total costs incurred for the 2007 biennium are estimated at \$29.7 million, all of which will need to be funded with supplemental appropriation authority. Alternatives to funding fire suppression are addressed in the agency issue section of this document.

Biennium Budget Comparison

The following table compares the executive budget request in the 2009 biennium with the 2007 biennium by type of expenditure and source of funding. The 2007 biennium consists of actual FY 2006 expenditures and FY 2007 appropriations.

Biennium Budget Comparison								
Budget Item	Present Law Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	Present Law Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Biennium Fiscal 06-07	Total Exec. Budget Fiscal 08-09
FTE	535.87	8.50	544.37	535.87	8.50	544.37	531.37	544.37
Personal Services	28,977,652	379,649	29,357,301	29,088,633	380,349	29,468,982	49,155,278	58,826,283
Operating Expenses	14,764,202	2,012,185	16,776,387	12,803,839	1,982,238	14,786,077	20,602,409	31,562,464
Equipment	1,346,172	1,390,000	2,736,172	1,155,948	390,000	1,545,948	2,166,464	4,282,120
Capital Outlay	135,118	0	135,118	135,118	0	135,118	124,422	270,236
Local Assistance	200,000	0	200,000	200,000	0	200,000	250,000	400,000
Grants	1,509,297	255,000	1,764,297	1,509,297	255,000	1,764,297	2,632,798	3,528,594
Transfers	959,896	5,000,000	5,959,896	977,351	5,000,000	5,977,351	1,620,487	11,937,247
Debt Service	478,820	0	478,820	478,820	0	478,820	948,621	957,640
Total Costs	\$48,371,157	\$9,036,834	\$57,407,991	\$46,349,006	\$8,007,587	\$54,356,593	\$77,500,479	\$111,764,584
General Fund	20,119,235	6,985,869	27,105,104	20,037,696	5,971,458	26,009,154	32,101,504	53,114,258
State/Other Special	26,296,693	2,150,965	28,447,658	24,373,910	2,136,129	26,510,039	41,522,186	54,957,697
Federal Special	1,955,229	(100,000)	1,855,229	1,937,400	(100,000)	1,837,400	3,876,789	3,692,629
Expendable Trust	0	0	0	0	0	0	0	0
Total Funds	\$48,371,157	\$9,036,834	\$57,407,991	\$46,349,006	\$8,007,587	\$54,356,593	\$77,500,479	\$111,764,584

Supplemental Appropriations: The department is seeking three supplemental appropriations. The two requests for fire suppression are discussed in the agency narrative. The request for repayment to trusts for diversion of revenues is discussed in the agency issues section.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Program	Fiscal 2008					Fiscal 2009				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2203 - O&G Public Assess Data System IT										
22	1.00	0	212,669	0	212,669	1.00	0	212,696	0	212,696
DP 2204 - O&G Education & Outreach BIEN										
22	0.00	0	62,500	0	62,500	0.00	0	62,500	0	62,500
DP 2205 - O&G North American Prospect Exposition (NAPE) BIEN										
22	0.00	0	7,500	0	7,500	0.00	0	7,500	0	7,500
DP 2208 - Temporary Relocation Costs RST/OTO/BIEN										
22	0.00	0	32,500	0	32,500	0.00	0	32,500	0	32,500
DP 2303 - Irrigation Assistance										
23	0.00	0	150,000	0	150,000	0.00	0	150,000	0	150,000
DP 2308 - Missouri River Council										
23	0.00	0	128,200	0	128,200	0.00	0	133,240	0	133,240
DP 2311 - Conservation District Watershed Position										
23	1.00	0	70,000	0	70,000	1.00	0	70,000	0	70,000
DP 2314 - Conservation Dist Operating-Coal Bed Methane RST										
23	0.00	0	100,000	0	100,000	0.00	0	100,000	0	100,000
DP 2403 - Water Rights Records Optical Imaging-ITSD										
24	1.00	0	117,961	0	117,961	1.00	0	117,978	0	117,978
DP 2405 - Yellowstone Compact Study and Hydrologist RST										
24	1.00	119,602	0	0	119,602	1.00	113,794	0	0	113,794
DP 2406 - St. Mary Administrative Position										
24	0.50	0	20,027	0	20,027	0.50	0	18,534	0	18,534
DP 2407 - Upper Clark Fork Steering Committee										
24	0.00	0	20,000	0	20,000	0.00	0	20,000	0	20,000
DP 2411 - Map Modernization Program State Match IT										
24	0.00	115,000	0	0	115,000	0.00	115,000	0	0	115,000

New Proposals											
Fiscal 2008						Fiscal 2009					
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 2412 - Surface Water/Ground Water Permitting Process (Requires Legislation)	24	3.00	146,367	21,871	0	168,238	3.00	137,764	20,585	0	158,349
DP 2413 - DFWP Dam Engineer	24	0.00	0	0	0	0	0.00	0	0	0	0
DP 2501 - RWRCC Contracted Services OTO	25	0.00	97,500	0	0	97,500	0.00	97,500	0	0	97,500
DP 3501 - Radio Communications IT RST	35	0.00	257,400	132,600	0	390,000	0.00	257,400	132,600	0	390,000
DP 3502 - Urban Forestry Funding Change	35	0.00	0	100,000	(100,000)	0	0.00	0	100,000	(100,000)	0
DP 3503 - Fire Fighting Equipment - Rst/Bien/OTO	35	0.00	1,000,000	0	0	1,000,000	0.00	0	0	0	0
DP 3504 - On-Going General Fund Support for Fire Fighting	35	0.00	5,000,000	0	0	5,000,000	0.00	5,000,000	0	0	5,000,000
DP 3530 - NELO Land Use Specialist	35	1.00	0	55,137	0	55,137	1.00	0	52,996	0	52,996
DP 3533 - Habitat Conservation Plan (HCP) Implem & Monit	35	0.00	0	120,000	0	120,000	0.00	0	105,000	0	105,000
DP 3535 - Land Exchange Reimbursement	35	0.00	0	300,000	0	300,000	0.00	0	300,000	0	300,000
DP 3542 - Reliance Refinery Remediation-BIE/OTO	35	0.00	0	500,000	0	500,000	0.00	0	500,000	0	500,000
DP 3549 - Woody Biomass Utilization Program - OTO	35	0.00	250,000	0	0	250,000	0.00	250,000	0	0	250,000
Total	8.50	\$6,985,869	\$2,150,965	(\$100,000)	\$9,036,834	8.50	\$5,971,458	\$2,136,129	(\$100,000)	\$8,007,587	

Agency Issues

Fire Costs and Funding Options

Suppression Costs

As discussed in the Agency Narrative section, Montana has incurred obligations for fire suppression costs of over \$34 million for the biennium. The legislature does not establish an appropriation for fire suppression costs. Historically, fire costs have been paid temporarily from the Forestry Division's general fund appropriation and through a statutory emergency appropriation if an emergency or disaster is declared. The department is then reimbursed and all other bills, except those paid with emergency appropriation authority, are funded through a supplemental appropriation. Consequently all funding come from the state's general fund ending balance and any determination of that balance must take into account the likely obligation. This discussion will establish the current average cost, describe impacts on costs, and establish fire suppression funding options for legislative consideration.

Average Cost of Fire Season

The most significant statistic rising from this fire season is the impact the estimated cost has had on the average cost of fire season. The Legislative Fiscal Division calculates this cost by analyzing the last seven years of fire bills, removing the high and low seasons and dividing by five. Prior to this season the average was approximately \$7.0 million per year. Given the estimated cost per date this statistic has risen to \$13.3 million per year, or \$26.6 million over the biennium. This cost renders the Governor's emergency fund, \$16 million per biennium, insufficient to cover wildland fire suppression costs. Figure 3 below provides a snap shot of historic fire costs.

Figure 3 Average Cost of Fire Suppression			
Fiscal Year	Total Cost	Reimbursements	Net Cost
2001	\$54,925,104	\$44,784,017	\$10,141,087
2002	16,417,193	3,549,700	12,867,493
2003	6,710,688	4,684,927	2,025,761
2004	79,579,965	44,582,841	34,997,124
2005	3,969,096	989,945	2,979,151
2006	8,806,797	3,066,927	5,739,870
2007	61,000,318	23,290,928	37,709,390
7 year averages	\$33,058,452	\$17,849,898	\$15,208,554
5 year adjusted average	\$29,572,020	\$15,835,065	\$13,344,945

Increased costs

The average cost of fires is also increasing. There are several reasons why the state costs of fighting wildland fires are increasing beyond the general severity of fire season, including decreased federal assistance, fire locations, (wildland urban interface) competition for resources, and increased fuel costs.

Decreased Federal (FEMA) assistance

During the 2000 fire season (FY 2001), Montana was provided blanket approval for financial assistance from the head of FEMA when he toured the fires with Senator Max Baucus. In FY 2004, the state received assistance based on the established criteria wherein 50 structures were threatened. For the FY 2007 fire season, FEMA raised that threshold to 100 homes. This change is a result of FEMA standardizing threshold criteria across the nation. Given the changes, Montana qualified for FEMA assistance on only three fires in FY 2007, the Saunders, Emerald Hills, and the Derby Fires, while other large fires such as Bundy Railroad, Pine Ridge, Packer Gulch and Jungle did not qualify.

Each FEMA declaration is date and time sensitive. Therefore, the state receives 75 percent assistance towards allowable costs within the declaration period. Because of this, the Emerald Hills assistance payment will be nominal. The Saunders fire and the Derby fire assistance payments will be approximately 60 percent of total costs.

Fire in the Wildland Urban Interface

Structure protection is more costly than wildland fire suppression. When homes, outbuildings and commercial buildings are in the path of the wildland fire, fire line tactics become more limited and additional resources are utilized to protect those structures in addition to those deployed to suppress the fire. A fire in a region without (or with few) buildings is generally easier and less costly to suppress.

Competition for Resources

During the FY 2001 and FY 2004 fire seasons, Montana was the hot spot and nationwide resources were directed to the state to suppress fire. During the FY 2007 fire season, however ten of the eleven national coordinating centers were experiencing large wildland fires. Hence, Montana fires had to compete for resources such as retardant planes, hot shot crews, and large helicopters.

When the Derby fire broke, most of the major equipment in the area was already dispatched to the Emerald Hills fire. Resources remained at Emerald Hills until such time that structure protection was secured. By the time resources were released to Derby, the firestorm of August 30, 2006 was just starting. During the storm, the fire line moved five miles in a twenty minute period. Shortly after this event, the Derby fire became the first priority wildfire for resources in the region, and made the region the highest priority in the nation for several days.

Increased Fuel Costs

The last major fire season was in FY 2004. Trucks, dozers, planes, and helicopters are key fire fighting tools. Therefore, there is no doubt that the price of fuel has had a major impact on wildland fire suppression costs. Since then the prices of gasoline, diesel and aviation fuel have risen significantly. Figure 4 demonstrates the change in prices between calendar year 2003 and May of 2006. All fuel categories have at least doubled since the last major wildland fire season.

Figure 4 Refiner Prices of Petroleum Products to End Users* Cents Per Gallon			
Year	2003	2006	% Change
Motor Fuel	115.6	246.1	113%
Aviation Fuel	149.3	301.3	102%
# 2 Diesel	94.4	226.2	140%
*Energy Information Administration (8/26/2006)			

Suppression Funding

Since suppression costs are not provided upfront funding through an appropriation by the legislature, DNRC does not have additional authority (and associated cash) specifically provided to pay these costs. DNRC must use a combination of tactics, including moving appropriations between programs and fiscal years, accessing the Governor's emergency fund and even taking general fund loans to come up with the authority to pay the bills as they become due. If these tactics leave the agency short of appropriation authority before the legislature meets in regular session to provide authority, a special session of the legislature may become necessary to secure that authority.

Options

To address the complexities of funding wildland fire suppression, three general fund options can be considered: a statutory appropriation, a line item appropriation, or a change in the Governor's emergency fund. With all options, if a fire season exceeds the annual average cost, DNRC would still need to manage cash until the legislature could meet and provide a supplemental appropriation for the remaining costs.

Statutory appropriation

A statutory appropriation of \$13.3 million per year or \$26.6 million over the biennium for the sole purpose of wildland fire suppression could be established through legislation. This would provide appropriation authority to the department to pay for wildland fire costs without utilizing appropriation authority from other programs in most years. In addition, the legislature would not have to appropriate these funds each session. The challenges to this option are:

- Subsequent legislation would be required to change the amount
- It is potentially duplicative of the Governor's emergency fund

Line item appropriation

The legislature could also provide a line item appropriation for wildland fire suppression. A one-time only, restricted, biennial appropriation of \$26.6 million could provide the department access to general fund authority to cover the cost of wildland fire suppression. The conditions would keep the appropriation out of the department's base budget, limit the appropriation to suppression only, and provide the flexibility to utilize the funds in either year of the biennium. The legislature could then appropriate funds based on historical averages, current wildland fire conditions, and the availability of general fund. If funds are not needed, the appropriation is not available for other purposes. The challenges to this option are:

- HB 2 appropriations are temporary
- It is potentially duplicative of the Governor's emergency fund
- It may unnecessarily reduce the amount of funds available for other purposes

Increase Governor's Emergency Fund

If providing an appropriation is not acceptable, a further option is to consider increasing the size of the Governor's emergency fund to \$26.6 million. Currently, 10-3-312, MCA limits the Governor to \$16.0 million in any biennium for emergency purposes, including wildland fire suppression. The fund is only available for fire suppression costs when the conditions in 10-3-301, MCA are met and a disaster is declared. Not all fire seasons result in declared disasters. To this end the legislature could clarify statute to allow access to this fund for those fire suppression costs that do not fall within a declared disaster. The challenges to this option are:

- The fund can be used for other emergencies in addition to fire suppression
- Without changes, only declared disasters qualify for funding

Creating a state special revenue fund

A revolving fund approach could be established if the legislature does not want to utilize general fund on an on-going basis. The source of revenue to the revolving fund could be the payments the state receives from other entities for fire suppression activities. Predominantly the funds come from federal agencies such as the Bureau of Land Management, US Forest Service, and the National Park Service and are used directly to offset the costs to the general fund.

The idea behind a revolving fund is to deposit payments into a separate fund to be utilized in the next fire season. DNRC officials would know the size of the fund prior to the next fire season. Since this would be a state special revenue fund, the appropriation authority could be established through the budget amendment process as fire suppression activities occur under the statute's emergency provision, rather than HB 2 or in statute. Statute could also be clarified to allow costs without a determination of an emergency. This would provide access on an as needed basis for the sole purpose of suppression.

Since federal reimbursements are deposited to a federal fund and used to pay the related expenditures, the reimbursements are generally passed through the system. In order to establish a revolving fund, the legislature would need to approve a general fund transfer to provide seed money to the fund. The challenges to this option are:

- Detailed legislation would be required to establish the fund and subsequent process
- May be seen as duplicative to the Governor's emergency fund
- General fund transfer is needed to start the fund

Summary & Options

The cost of wildland fire suppression will continue to be incurred on an annual basis. Whether a mild or severe season, Montana can anticipate spending, on the average, \$13.3 million per year. The legislature has the ability to appropriate funds for this cost and avoid placing DNRC in a cash crunch situation every fire season.

Of the four options, two are addressed in proposed legislation. LC 711 by the Governor proposes to increase the emergency fund from \$16.0 to \$25.0 million. The proposed legislation does not eliminate the need for disaster declaration to access the funds.

LC 545, requested by the Legislative Finance Committee, proposes to establish a wildland fire suppression fund. This legislation includes a one time transfer of \$25.0 million of general fund to establish the new fund. The executive's budget request includes an additional deposit of \$5.0 million per year to the fund and each year thereafter.

The legislature has the option to enact the remaining two options by:

- Requesting legislation to establish a statutory appropriation
- Requesting a line item appropriation in HB 2 during the 2007 session

Increased federal uncertainty

At the time of this analysis, the US Department of Agriculture (USDA) Office of Inspector General released an audit report titled "Forest Service Large Fire Suppression Costs". The report concluded the following:

- Suppression costs need to be fairly shared by state and local governments
- Use of wild land fire (by the US Forest Service) should be expanded to control costs of future fires
- Forest Service cost-containment controls need to be strengthened

The audit recommendations were accepted by the Forest Service and it is anticipated that they will implement changes to USFS policy to meet the recommendations. This could have significant impact on the department's protection and suppression programs. The timing of this audit did not allow for full analysis by the LFD staff. The analysis will be completed and presented to the subcommittee as part of the wildland fire suppression discussions.

Resource Indemnity Trust

Article IX of the Montana Constitution provides for the protection and improvement of the Montana environment and requests that the legislature provide adequate remedies for environmental protection from degradation. It specifically requires "all lands disturbed by the taking of natural resources shall be reclaimed", and requires the existence of a resource indemnity trust (RIT) fund for that purpose, to be funded by taxes on the extraction of natural resources.

The department receives \$3.2 million annually in RIT related funding to provide a number of natural resource related activities. In addition, HB 6 and HB 7 provides approximately \$10.0 million in grants and loans from RIT sources, which the department manages.

RIT Distributions and Tax Proceeds

The legislature provides for statutory allocation of the resource indemnity and ground water assessment and applicable portions of the oil & gas tax that originally funded the RIT. The Resource Indemnity Groundwater Assessment (RIGWA) and the applicable portion of the oil & gas tax are now distributed to a number of natural resource accounts.

RIGWA – The first \$460,630 is deposited into the Superfund debt service account and the second \$366,000 is deposited into the ground water assessment account. The remaining funds are distributed 50 percent into the reclamation and development grant program account and any remaining funds to the orphan share account.

Applicable portion of the oil and gas taxes – 2.95 percent is deposited to the reclamation and development grant program account, and 2.95 percent to the orphan share account.

Prior to the RIT trust meeting the corpus constituency set \$100 million threshold, 7 percent of the Metalliferous Mine License Tax was deposited to the RIT. This deposit is now made to the reclamation and development account.

During the 2005 session, concern about the solvency of two RIT accounts, hazardous waste/CERCLA and the environmental quality protection fund, was raised. Legislation was passed to provide the ability to transfer up to \$600,000 from the orphan share account to prevent a negative balance in either account. If this transfer occurs, the hazardous waste/CERCLA and environmental quality protection funds must reimburse the orphan share account when funds become available.

RIT Distributions –Interest Allocations

Allocations of RIT interest earnings are not restricted by the constitution. The legislature has chosen to directly and indirectly allocate interest for a number of purposes.

Direct Allocations: 15-38-202 MCA directs where the interest from the RIT is allocated. Direct allocations are made to a number of sources. Allocations to the environmental contingency account, oil and gas production mitigation account and the water storage account are made at the beginning of the biennium. The other allocations are made at the beginning of each fiscal year.

Indirect Allocations: After direct interest allocations are made, 15-38-202 directs the remaining interest on a formula basis. In FY 2005 the formula provided: 25.5 percent to the renewable resources grant and loan account, 45 percent to the reclamation and development grant program account, 22 percent to the hazardous waste/CERCLA account and 7.5 percent to the environmental quality protection fund.

Accounts Receiving RIT Related Revenue

RIT interest allocations, RIGWA allocations, applicable portions of the oil and gas taxes and a portion of the metalliferous mine tax are directed toward a variety of natural resource accounts. From those accounts appropriations are made by the legislature to support natural resource agencies and activities. The major accounts of importance are as follows:

- Ground water assessment account - funds groundwater monitoring and characterization studies
- Renewable Resource Grant and Loan Program - provides grants and loans to enhance Montana's renewable resources through projects that measurably conserve, develop, manage or preserve resources
- Reclamation and Development Grant Program - provides grants to repair, reclaim, and mitigate environmental damage to public resources from non-renewable resource extraction
- Orphan Share Account-used to fund the percent of remediation activities at a contaminated site that are attributable to a bankrupt or otherwise insolvent entity
- Hazardous Waste/CERCLA - funds the implementation of the Montana Hazardous Waste Act and state expenses for overseeing the federal Comprehensive Environmental Response, Compensation and Liability Act
- Environmental Quality Protection Fund - utilized to identify, investigate, negotiate and prosecute individuals/entities to achieve remedial action or recover costs and damages
- Coal Bed Methane Protection Account– available to compensate private landowners or water right holders for damage caused by coal bed methane development after July 1, 2005
- 6 mill University System- funds to support the Montana University System
- Environmental Contingency Account- an account controlled by the Governor for the purpose of responding to emergent or imminent threats to the environment
- Future Fisheries - use of funds to reclaim habitat and spawning areas of the bull and cutthroat trout
- Oil & Gas Production Mitigation Account - funds for properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations
- Water Storage Account - used for grants and loans to fund water storage projects

Tax Descriptions

- Resource Indemnity and Ground Water Assessment (RIGWA) - taxes paid by person(s) who engages in or carries on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source
- Metalliferous Mines License Tax - license tax on person(s) engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones are produced
- Oil and Gas Taxes - taxes on the production of oil and gas

HJR 36 Study

HJR 36 was proposed as a means to address the multiple issues associated with the RIT and related funds that were identified through the budget analysis and appropriations process during the 2005 Legislature. This included such issues as: fund utilization in conflict with statutes, confusion regarding the flow of interest income and taxes, and coordination among multiple agencies. To meet the terms of the resolution, the Legislative Finance Committee (LFC) established an RIT subcommittee to complete the tasks. The LFC adopted the full recommendations of the RIT subcommittee.

Prioritization of Activities

The RIT subcommittee utilized program information and standardized program presentations from the affected departments to establish a priority ranking for each program funded all or in part with RIT dollars. This allowed the sub-committee to identify programs that may or may not be consistent with the statutory use of RIT funds and may or may not be a benefit to the state. The results are summarized in Figure 5.

In this process, an entity could rank low if one of the criteria was scored consistently low. For example, the subcommittee recognized the importance of the water quality programs at Montana State University – Northern, but questioned the alignment with RIT funding since the funds were utilized for infrastructure purposes.

Recommendations

After the consideration of staff research, department testimony, and information, the subcommittee developed recommendations in three areas. There are three types of recommendations: 1) requiring legislation; 2) other recommendations; and 3) red flags.

Recommendations Requiring Legislation

The LFC has requested legislation to implement all recommendations. The following issues are addressed in the LFC bill (LC 0147).

Statutory Clean up

All fund statutes are to be clear in regard to fund purpose and fund utilization. This change would enable the legislature to tie an activity to a fund source and potentially an appropriation, and could eliminate the issues of paying for programs not related to the fund source. This includes removing requirements in statute (i.e. water storage grant and loan program) that have never been developed or are no longer appropriate.

Figure 5 RIT Subcommittee Program Ranking		
Rank	Program	Score
1	Renewable Resources Grant & Loans	31
	Reclamation and Development Grants	31
	Assessment	31
	Oil & Gas Damage Mitigation	31
	St Mary's Reauthorization Staff	31
2	Orphan Share Program	29
	Conservation Districts	29
3	Environmental Quality Protection Fund	28
	State Water Projects	28
4	Hazardous Waste Mgmt	27
5	Hazardous Waste/CERCLA	26
	Local Water Quality Districts	26
6	Coal/Uranium Mining	25
	Hardrock Mining	25
	Wellhead Planning	25
7	Flathead Basin Commission	23
	Public Water Supply	23
	Zortman Landusky Trust	23
8	Underground Tanks	22
9	Permitting & Compliance (DEQ) Admin	21
10	Irrigation Development	20
	DEQ Enforcement Division	20
	Environmental Contingency Account	20
	Water Court	20
	Natural Resource Information System	20
11	DEQ Attorney Pool	19
	Open Cut Mining	19
	Clark Fork Task Force	19
	Attorney General Services	19
12	Water Pollution - 106	18
13	Watershed Fiscal (DEQ)	15
14	Future Fisheries	13
15	MSU - Northern	11
16	Natural Resources Scholarship	1[1]

[1] The ranking of the scholarship program was not completed by all members of the subcommittee as the statute providing for the program sunsets in June of 2007. The Department of Labor and Industry supports the sun setting of this program because the state has received federal funding for displaced natural resource workers, and the scholarship fund has not been widely used.

Revise allocation of RIGWA taxes

The cash balance in the hazardous waste fund (HW) and the environmental quality protection fund (EQPF) is dependent upon the ability to transfer funds from the orphan share fund. Each fund needs a stable income source in order to meet basic statutory requirements for the hazardous waste program and the state Superfund program. The proposed legislation allocates approximately \$630,000 of RIGWA taxes each biennium equally to the HW and EQPF funds rather than depositing the funds to the orphan share. This would remove the orphan share fund from the RIT matrix, as it would no longer receive revenue from RIGWA taxes. The orphan share currently receives ten percent of total revenue from RIGWA taxes.

Eliminate Statutory Appropriations of RIT Interest

Two programs currently receive statutory appropriations for RIT interest. First, the oil and gas damage mitigation fund receives \$50,000 per biennium to provide funding for the administrative oversight of priority reclamation and development grants to plug abandoned wells. This appropriation could be handled through HB2 as the expenditure is predictable and the funding is from a stable source. In the proposed legislation, this statutory appropriation is eliminated. The executive has asked for spending authority in HB 2.

The second statutory appropriation of RIT interest is for \$240,000 per year to Montana State University – Northern for the purpose of providing funding for 2.76 FTE for science and water programs with the remaining funds budgeted for debt service on laboratory renovations. In the proposed legislation this statutory appropriation is eliminated.

Remove Cap on Groundwater Assessment Fund

The Montana Bureau of Mines has been operating on a \$666,000 appropriation for the last three biennia. Because of this fixed funding level, during the 2005 session they received one-time-only funding of RIT corpus in excess of the constitutionally required \$100 million, to cover the increased costs of personal services and travel. Statute describing the fund limits the fund balance to \$666,000 and directs all other grants and donations to the program to be deposited to the fund. The cap prevents the program from actively seeking additional funding. The proposed legislation eliminates the cap in statute.

Re-design the Renewable Resource and Reclamation and Development Funds

The renewable resource and reclamation and development funds were established to provide funding for grant and loan programs. Over time the funds have been utilized for other programs and activities, as appropriations were made based on the availability of funds, rather than the statutory purpose of the fund. The LFC recommends that these funds be redesigned to meet two goals:

- Provide a fund for the renewable resource and reclamation and development grant and loan programs
- Provide a fund for other natural resource related activities

In the proposed legislation the renewable resource fund is renamed the natural resources projects fund. This fund would receive the revenues currently directed to the grant and loan program in statute. Appropriations for the grant and loan program and the corresponding administrative costs would be made from this fund.

In addition, the former reclamation and development fund would be renamed the natural resources operations fund. This fund would receive revenues directed to the reclamation and development fund and the renewable resource funds that are not specifically allocated to the grant and loan programs. Appropriations would be made from this fund for the following activities:

- Operation of the Water Court
- Department of Environmental Quality Programs
 - Attorney Pool
 - Enforcement
 - Coal and Uranium Mining
 - Hard Rock Mining
 - Open Cut Mining

- Permitting and Compliance Administrative functions
-
- Department of Natural Resources and Conservation Programs
 - Conservation Districts
 - Clark Fork Task Force
 - St. Mary's Rehabilitation Project Staff
 - Flathead Basin Commission
 -

Transfer balance of Natural Resources Scholarship Fund

During the study, the Department of Labor and Industry (DOLI) notified the RIT subcommittee of their desire to see the Natural Resources Scholarship program sunset in June 2007 as statute currently reads. DOLI has been receiving federal funds for this purpose and therefore the fund has not been widely used. The proposed legislation allows the statute to sunset and the remaining fund balance to be transferred to the water storage fund to assist with the backlog of rehabilitation projects on state owned water projects.

Increase reporting requirements

LC 0148 is a second piece of RIT related legislation. This legislation amends the future fisheries statute to clarify the type and scope of information to be provided to a specific body of the legislature regarding the investment in the future fisheries program. Current statute directs the report to the legislature as a whole and does not provide adequate planning information.

Recommendations – Not Requiring Legislation

Request Performance Audits

The LFC recommended to the Legislative Audit Committee two programs for performance audits; the Orphan Share Program and the Future Fisheries Program.

Orphan Share Program

The Orphan Share Program was designed to cover the cost of defending the orphan share (portion of the clean up attributable to an economically defunct party) and paying for the orphaned portion of the cleanup. Over the past three biennia, the legislature has appropriated the same amount of funding for the same two sites. The executive is requesting the same appropriation for the 2009 biennium. The intent of the request was to have the process reviewed in order to determine if there are particular policies or statutes that are inhibiting the ability to achieve remediation at these sites. The LAC approved this request and the audit is scheduled to begin in the spring of 2007.

Future Fisheries

The Future Fisheries Program provides on-the-ground support to landowners to improve habitats. This program also receives funding from the river restoration fund and the general license account. The intent of the request was to determine if mineral reclamation projects are a priority, how the management of multiple funding sources within the program occurs, if monitoring of projects occurs, and what the measurable outcomes are to determine success of this program. The LAC did not approve this request.

Red Flags

During the process issues arose that are related to RIT programs but were not within the parameters of the study. They are the backlog of rehabilitation of state water projects and the funding formula for the Natural Resources Information System (NRIS).

- State Water Projects Bureau - There are thirteen state owned water projects on the anticipated future rehabilitation cost estimate worksheet requiring \$24.75 million in repairs. This does not include potential work on state owned canals. The appropriation of \$500,000 of RIT interest per biennium may not allow effective

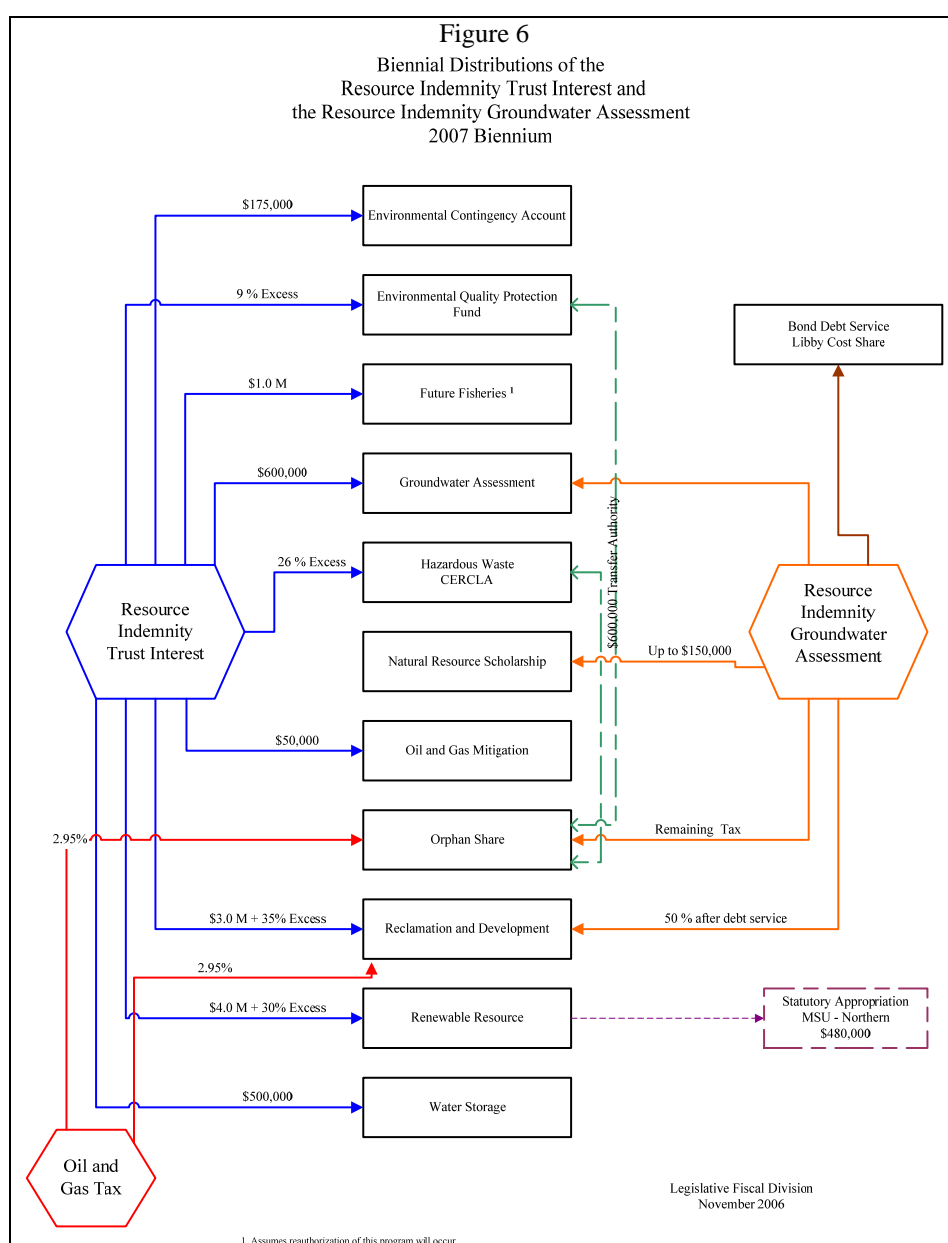
rehabilitation of state owned projects. This issue is further addressed in the Water Resources Division budget analysis.

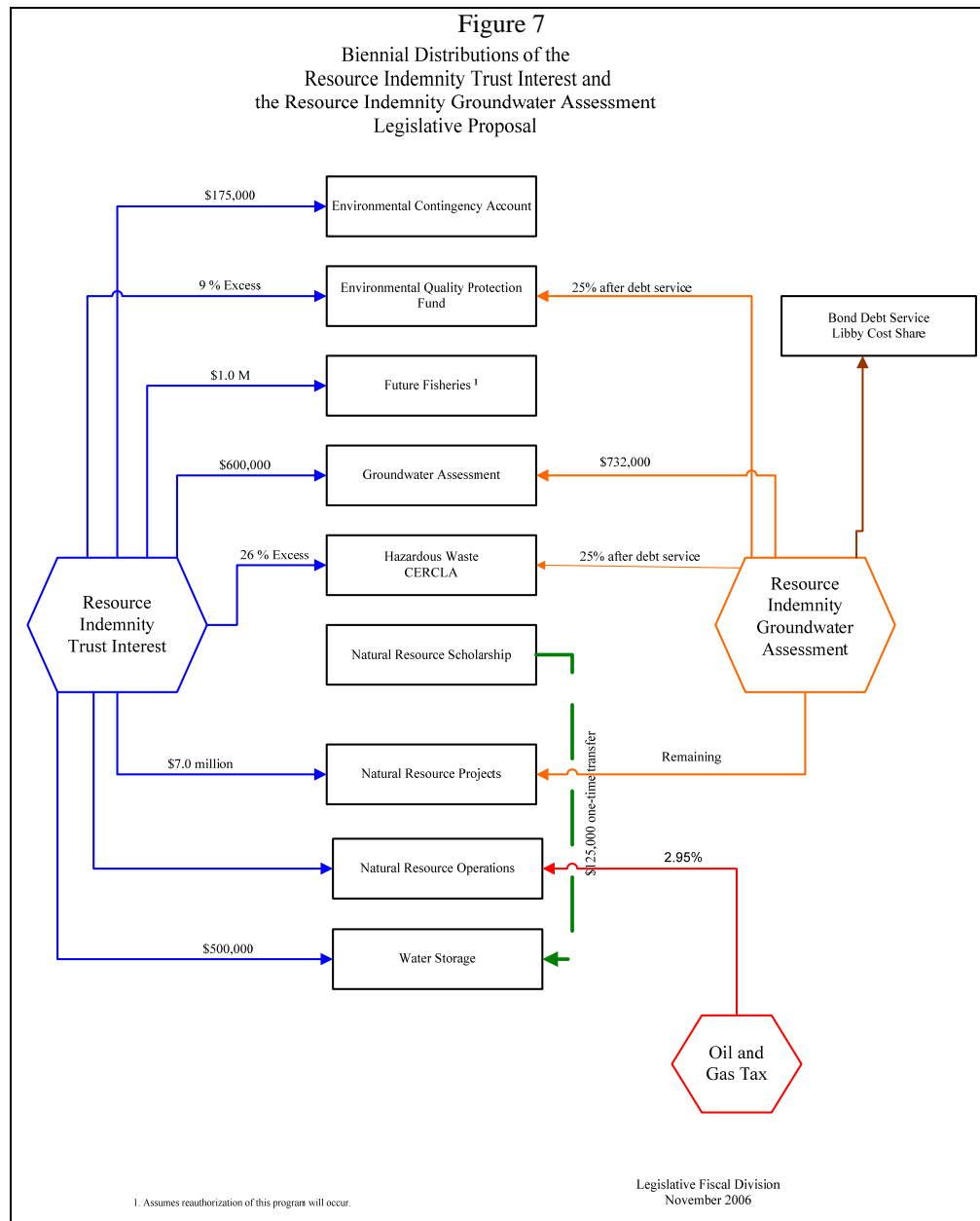
- The funding formula for the NRIS in the Montana State Library is complex. RIT related funds are directly appropriated to the program and additional RIT funds are appropriated to agencies and then transferred to the Library in support of NRIS. A simpler funding mechanism may be available to assure continual access to the NRIS system. Options for this issue are addressed in the State Library's budget analysis in Volume 7.

Executive Budget & Proposed Legislation

The proposed legislation does provide some relief on the issues identified prior to and during the HJR 36 study. This includes reallocation of RIGWA taxes to eliminate inter fund transfers, consolidation of grant and loan programs, elimination of two funds from the RIT matrix, and clarification of utilization of related funds.

The proposed changes are addressed in two formats. First, the flow of revenues is illustrated in Figures 6 and 7. Current statutory allocations of revenue are represented by Figure 6 and the proposed legislation is represented in Figure 7. This provides a visual flow of revenues if LC0147 is passed and approved.





The second table provides the detail of the appropriations from the RIT related funds. Both tables break out revenue estimates and the requests for funding from the executives request. Figure 8 represents current statutes, while Figure 9 represents the proposed legislative changes

Figure 8 Executive Request Resource Indemnity Funding									
Related Funds	02010 Oil & Gas	02022 Future Fisheries	02070 Hazardous Waste	02162 EQPF ¹	02216 Water Storage	02272 Renewable Resources	02289 Ground Water	02458 Reclamation & Development	02472 Orphan Share
<u>Beginning FY2007 Fund Balance</u>	<u>\$219,561</u>	<u>\$1,032,311</u>	<u>\$89,346</u>	<u>\$419,457</u>	<u>\$716,170</u>	<u>\$1,950,372</u>	<u>\$0</u>	<u>\$4,293,817</u>	<u>\$8,752,332</u>
FY 2007 Revenues	47,000	500,000	287,300	1,363,265		2,571,500	666,000	5,857,740	3,221,040
FY 2007 Appropriations	(193,099)		(620,221)	(1,119,630)	(374,079)	(1,394,999)	(666,000)	(3,535,520)	(4,097,366)
Reserved for Capital Appropriations	0	(1,532,311)							
Reserved for LT notes	0				0	(114,423)		(635,000)	
Projected Fund Balance Beginning FY 2008	\$73,462	\$0	(\$243,575)	\$663,092	\$342,091	\$3,012,450	\$0	\$5,981,037	\$7,876,006
RIT Interest - Direct	50,000	1,000,000	389,740	134,910	500,000	4,929,700	600,000	3,524,650	
RIGWA							732,000	476,601	476,602
Other Taxes								8,621,719	6,621,719
Agency Generated Revenues	40,000		18,000	1,512,000	430,000				
Transfers									(2,400,000)
<u>Projected Fund Balance Beginning FY 2008</u>	<u>\$163,462</u>	<u>\$1,000,000</u>	<u>\$164,165</u>	<u>\$2,310,002</u>	<u>\$1,272,091</u>	<u>\$7,942,150</u>	<u>\$1,332,000</u>	<u>\$18,604,007</u>	<u>\$12,574,327</u>
House Bills 6 and 7 Grants (Executive Recommended)						5,900,000		5,196,500	
MSU-Northern (Statutory)						480,000			
UM-Bureau of Mines							1,332,000		
DNRC - Centralized Services						54,586		288,715	
DNRC - Conservation and Resource Devel. Division						599,564		2,449,102	
DNRC-Water Resources Division					625,000	24,130		251,612	
DNRC-Flathead Basin Commission						13,682		172,709	
DNRC - Board of Oil & Gas HB 2	194,382								
DNRC - Forestry Division						200,000			
DNRC - Trust Lands								1,000,000	
DEQ-Central Management			9,865					94,418	
DEQ-Planning, Prevention & Assistance			236,148						
DEQ-Enforcement								8,810	
DEQ-Remediation			58,050	1,496,447					4,135,026
DEQ-Permitting & Compliance			792,953					3,328,148	
FWP - HB 5 LRBP		1,000,000							
Judiciary-Water Court						1,775,445			
Library Commission-State Library Operations/NRIS								782,872	
HB 13 Pay Plan									
<u>Appropriations</u>	<u>\$194,382</u>	<u>\$1,000,000</u>	<u>\$1,097,016</u>	<u>\$1,496,447</u>	<u>\$625,000</u>	<u>\$9,047,407</u>	<u>\$1,332,000</u>	<u>\$13,572,886</u>	<u>\$4,135,026</u>
Ending Balance	<u>(\$30,920)</u>	<u>\$0</u>	<u>(\$932,851)</u>	<u>\$813,555</u>	<u>\$647,091</u>	<u>(\$1,105,257)</u>	<u>\$0</u>	<u>\$5,031,121</u>	<u>\$8,439,301</u>

1 - EQPF Revenues include cost recovery. The actual biennial recovery has varied between \$1.0 to \$2.3 million.

Figure 9 Proposed Legislation Resource Indemnity Funding									
Related Funds	02010 Oil & Gas	02022 Future Fisheries	02070 Hazardous Waste	02162 EQPF ¹	02216 Water Storage	02289 Ground Water	02472 Orphan Share	Operations	Projects
<u>Beginning FY2007 Fund Balance</u>	\$219,561	\$1,032,311	\$89,346	\$419,457	\$716,170	\$0	\$8,752,332	\$0	\$0
FY 2007 Revenues	47,000	500,000	287,300	1,363,265		666,000	3,221,040	0	0
FY 2007 Appropriations	(193,099)		(620,221)	(1,119,630)	(374,079)	(666,000)	(4,097,366)	0	0
Reserved for Capital Appropriations	0	(1,532,311)						0	0
Reserved for LT notes	0				0			0	0
Projected Fund Balance Beginning FY 2008	\$73,462	\$0	(\$243,575)	\$663,092	\$342,091	\$0	\$7,876,006	\$4,496,743	\$4,496,743
RIT Interest - Direct	50,000	1,000,000	389,740	134,910	500,000	600,000		1,454,350	7,000,000
RIGWA			238,301	238,301		732,000			476,601
Other Taxes							6,621,719	8,621,719	
Agency Generated Revenues	40,000		18,000	1,512,000	430,000				
Transfers					125,000		(2,400,000)		
<u>Projected Fund Balance Beginning FY 2008</u>	<u>\$163,462</u>	<u>\$1,000,000</u>	<u>\$402,466</u>	<u>\$2,548,303</u>	<u>\$1,397,091</u>	<u>\$1,332,000</u>	<u>\$12,097,725</u>	<u>\$14,572,812</u>	<u>\$11,973,344</u>
House Bills 6 and 7 Grants (Executive Recommended)									11,096,500
MSU Northern (Statutory)									
UM-Bureau of Mines						1,332,000			
DNRC - Centralized Services								343,301	
DNRC - Conservation and Resource Devel. Division								3,048,666	
DNRC-Water Resources Division					625,000			275,742	
DNRC-Flathead Basin Commission								186,391	
DNRC - Board of Oil & Gas HB 2	194,382								
DNRC - Forestry Division								200,000	
DNRC - Trust Lands								1,000,000	
DEQ-Central Management			9,865					94,418	
DEQ-Planning, Prevention & Assistance			236,148						
DEQ-Enforcement								8,810	
DEQ-Remediation			58,050	1,496,447			4,135,026		
DEQ-Permitting & Compliance			792,953					3,328,148	
FWP - HB 5 LRBP		1,000,000							
Judiciary-Water Court								1,775,445	
Library Commission-State Library Operations/NRIS								782,872	
HB 13 Pay Plan									
<u>Appropriations</u>	<u>194,382</u>	<u>1,000,000</u>	<u>1,097,016</u>	<u>1,496,447</u>	<u>625,000</u>	<u>1,332,000</u>	<u>4,135,026</u>	<u>11,043,793</u>	<u>11,096,500</u>
Ending Balance	(\$30,920)	\$0	(\$694,550)	\$1,051,856	\$772,091	\$0	\$7,962,699	\$3,529,019	\$876,844

1 - EQPF Revenues include cost recovery. The actual biennial recovery has varied between \$1.0 to \$2.3 million.

Negative Fund Balances

Figure 10 summarizes the funds that are projected to have a negative ending fund balance at the end of FY 2009 as per current law and the proposed legislation. This includes the oil and gas fund, the renewable resources fund, and the hazardous waste fund.

The oil and gas mitigation fund has the ability to utilize reclamation bonds to raise the necessary revenue to plug abandoned wells. The negative balance in cash could be made up through these bonds.

The renewable resource fund is over appropriated under current law. The legislature has two options; 1) reduce the appropriation authority from the fund; or 2) change the manner in which RIT revenues are distributed to this fund. The second option is addressed in the proposed legislation (LC 0147).

The hazardous waste fund appears to be over appropriated. However, the issue is the manner in which revenue is deposited to the fund. The hazardous waste fund by statute (75-10-621, MCA) is to receive proceeds and interest on bonds or notes issued for state match to the Superfund program. However, those revenues are not deposited and expended from this fund. The Superfund bond proceeds and subsequent expenses are held in a fund specific to the series released. The legislature has the option of requesting legislation to clarify the disposition of the interest and proceeds and the hazardous waste account could receive additional revenues and potentially eliminate the negative ending fund balance.

Management of state owned lands

The Trust Land Management Division of DNRC is responsible for managing ten trusts consisting of 5.1 million surface acres, 6.3 million mineral acres, and 6,000 miles of navigable rivers for the largest return possible for the beneficiaries through multiple land use policies under the direction of the Board of Land Commissioners (land board). The lands were provided to the state through the Enabling Act and the Morrill Act to support specific beneficiaries. The beneficiaries include common (public) schools, the university system, and specific state institutions. Revenue is generated through land management activities such as commercial leasing, grazing, recreational use, and minerals management. The cost to manage such activities is recovered from trust revenues. There are two issues with management of trust lands: 1) how the administration of trust lands should be financed; and 2) how the lands should be managed for the best possible return.

Financing of trust land activities

Trust land administration is currently funded through the retention of a portion of distributable (those revenues that by law are distributed directly to the beneficiary) and non-distributable (those revenues by law that are to be deposited to the permanent trust going to the trust) revenues.

Those revenues are deposited to one of seven funds that each have a specific purpose. The seven funds are summarized in Figure 11.

Legislative legal counsel has long held that it is inappropriate to finance the administration of trust lands in this manner. Article X of the constitution establishes the trusts as permanent and protected against loss or diversion, but is silent on the retention of

Figure 10
RIT Funds with negative balance at FYE 2009

	Current Law	Proposed Legislation
Oil & Gas	(\$30,920)	(\$30,920)
Hazardous Waste	(950,891)	(712,550)
Renewable Resource	(\$1,105,257)	\$0

Figure 11

Department of Natural Resources and Conservation
Trust Land Funding Resources

Fund and Description	Fund #	MCA
Trust Administration Account	02938	77-1-108
The amount appropriated from the account by the legislature is deposited from mineral royalties, proceeds from the sale of easements, fees, and five percent of the interest and income annually provided to the public school fund. Fund is to be		
Timber Sale Account	02280	77-1-613
The amount appropriated from the account by the legislature is deposited from timber sale revenue. Fund is to be utilized for timber sale preparation and documentation.		
Forest Improvement Fees	02449	77-5-204
Fee added to the sale of timber from state lands for the department to use for slash disposal, road maintenance, reforestation, and complying with legal requirements for timber harvesting.		
Resource Development	02450	77-1-604
Three percent of trust revenues deposited for the purpose of developing and improving state lands to increase revenues.		
Recreational Use Fees	02241	77-1-808
\$2.00 surcharge on conservation licenses to reimburse state lands for recreational usage. Ten percent of the revenue can be retained for damage compensation, weed control, protection of assets and recreational program management.		
Trust Land Banking	02324	77-2-362
Ten percent of proceeds from land sales can be retained to cover the transactional costs of buying and selling property		
Trust Land Commercial Leasing	02836	77-1-905
Ten percent of annual rents received from commercial leases to be utilized for contracting with realtors, property managers, attorneys, or leasing professionals for program administration.		

revenues for trust land administration. Statute provides the authority for the department to deposit revenues to an administration account that by constitutional declaration should be deposited to the permanent fund or distributed to the beneficiaries. In addition, lands granted to the state under the Morrill Act specifically prohibit the use of any revenues for administrative purposes.

The department voluntarily stopped retaining revenue to cover the administrative expenses of the Morrill trust in 2002 and utilized non-Morrill trust revenues to cover the administrative costs of the Morrill trust. The Environmental Quality Council (EQC) conducted an interim study on the affects of this diversion. The EQC is sponsoring legislation to correct the diversion issues. A recent legislative audit did address the amount of the diversion.

Legislative Audit

The legislative audit division conducted a routine fiscal audit of the department in the fall of 2006. The findings in this audit illustrate the issues associated with the financing of trust administration through the retention of revenues. The legislative audit findings have identified \$968,174 of inappropriate diversions of such revenues, not including interest. The executive is proposing to reimburse the trusts approximately \$560,000 through a supplemental appropriation for FY 2007.

There are three specific areas associated with the supplemental request:

1. Violation of the federal Morrill Act;
2. Utilization of other trust revenues to administer the Morrill Trust; and
3. Inappropriately withheld common school revenues to cover administrative costs.

Violation of the Federal Morrill Act

As stated earlier, section 3 of the Morrill Act directed the expenses of the trust to be paid out of the treasury of the state. Morrill trust revenues have been utilized to manage the Morrill trust for the benefit of Montana State University between FY 1967 and FY 2002. A total of \$507,643 was diverted by law from trust revenues during this period of time. The legislative audit determined that the Morrill trust or its beneficiary (Montana State University) should be repaid the amounts that were inappropriately withheld. The proposed supplemental includes plans to repay the diverted trust revenues. However, DNRC's fiduciary duty obligates that they also repay accrued interest.

Utilization of other trust revenue for Morrill Trust Administration

In FY 2003, DNRC voluntarily stopped taking assessments against the Morrill Act trust and the administrative costs have been absorbed by the other trusts, including other university trusts. Figure 12 summarizes the amount of Morrill Act costs that were paid by the other trusts between FY 2003 and FY 2005. There will be additional costs associated with FY 2006 and FY 2007. As with the Morrill trust, DNRC's fiduciary duty obligates that diverted trust revenues and accrued interest be returned to the trusts that absorbed the stopped Morrill assessments.

The supplemental appropriation request includes \$52,955 of these diversions. However, it does not include a repayment to common schools and it does not provide for interest to the beneficiaries. In addition, the executive branch has determined that the common schools have already been compensated by the general fund due to the offsetting relationship between trust revenues and the general fund in funding public schools. However, most of the diverted revenues would have otherwise been added to trust investments, ultimately increasing the revenues available for distribution to the beneficiaries. For the commons school, prior to 2001 and after repayment of the coal tax loan used to purchase the mineral royalty income stream, the revenues would have been added to trust investments.

Figure 12
Amounts Inappropriately Withheld From Trust Revenues*
From Leg. Financial Audit

Common School	\$191,945
University of Montana	5
MSU - Second Grant	12,874
Montana Tech	678
State Normal School	5,388
School for the Deaf & Blind	660
State Reform School	7,502
Capitol Building	25,848
Total	<u>\$244,900</u>

* Does not include related interest

Inappropriately withheld common school revenues to cover administrative costs

State law limits administration to 1.125 percent of the book value of all trusts, except capitol buildings. The DNRC then uses internal policy and procedures to calculate the amount each trust contributes to administration and deposits that amount from revenue sources into the trust administration account. During FY 2005 and 2006, certain trusts were unable to meet their administrative obligations based on DNRC cost allocation policies and state law. The deficit to the trust administration account was made up by a diversion of \$215,631 revenues from the common school trust. The supplemental appropriation does not include repayment of this amount or any corresponding interest.

Need for Legislative Review

It is the decision of the legislature to determine how the trusts are to be made whole from the diversions of revenue. The issue for the legislature is to determine the amount needed to make the trusts whole and the process in which it should be completed.

How Much

Figure 13 Summary of Amounts Inappropriately Withheld From Trust Revenues with Interest			
	Morrill Diversions	Other Diversions	Allocation Issue
Common School		\$191,945	\$215,631
University of Montana		5	
Morrill Trust	\$507,643		
Montana State University - 2nd Grant		12,874	
Montana Tech		678	
State Normal School		5,388	
School for the Deaf & Blind		660	
State Reform		7,502	
Capital Building		25,848	
Diverted Revenue Total	\$507,643	\$244,900	\$215,631
Estimated Interest	351,887	1,400	1,000
Diverted Revenue & Interest	<u>\$859,530</u>	<u>\$246,300</u>	<u>\$216,631</u>

As stated, trust statute states that it is DNRC's fiduciary duty to return not only diverted but also accrued interest. The issue for the legislature is to determine an appropriate amount of interest. Diverted revenues most likely would have been deposited to the permanent trust fund. Figure 13 addresses total obligations through FY 2005 and minimal interest estimates. The estimates were calculated based upon corresponding STIP rates and simple compounding. The amount does not include the amount of diversions made in FY 2006 or FY 2007 for administration of the Morrill trust.

How Repayment Should Occur

A second issue for the legislature is to determine how the repayment of past diversions should occur. As stated, the executive is proposing a supplemental appropriation to DNRC to repay the trusts. However, transferring general fund to trust funds does not require appropriation authority as it is not leaving the treasury. If the legislature believes that these funds should be directly deposited to the trusts, legislation could accomplish this by simply directing transfers from the general fund to the appropriate trust. The proposed legislation could clearly outline why the transfer needs to occur.

If the legislature wished to provide one-time only spending authority to the beneficiaries for the amount diverted and any subsequent interest, an appropriation would be required. The legislature can choose to condition this money for a specific purpose or allow the beneficiaries to make that decision. This could be accomplished through HB 2 or a cat and dog bill.

LFC Action

This information was provided to the Legislative Finance Committee (LFC) at the November 28, 2006 meeting. The LFC has requested legislation to reimburse the trusts for the diverted amounts plus interest through a separate bill.

Summary

The legislature may wish to:

- Add funds to the supplemental appropriation to repay all trust diversions with interest
- Support the LFC legislation to utilize general fund transfers to the specific trusts for repayment of the past diversions and interest rather than a supplemental appropriation

Management of State Lands

The second issue relates to how the lands are managed in order to generate revenues for the beneficiaries. Land is classified as an asset and thus should be managed as such. The ability to do so is limited without an overall land management plan. This discussion applies to trust lands but can easily be translated to non-trust lands. The legislature has a number of ways to influence land management, specifically through Land Banking, land values, third party review, and overall policy issues.

Land Banking

Land banking was established by the 2003 Legislature to provide for the opportunity to sell isolated trust parcels and purchase parcels with greater revenue potential. The divesting of isolated parcels would also improve the department's ability to manage the land. Isolated parcels are nominated for sale, sold at public auction, and the proceeds used to purchase replacement parcels. The program sold the first parcel in the Flathead Valley in June of 2006 and is expected to perfect the first purchases by the end of 2006. The program is set to sunset on October 1, 2008, unless proposed legislation to extend the sunset date is passed and approved. Per statute, the legislature will not receive a formal report of the progress of this program until the program is completed.

In order to assure that the land banking program is meeting its objectives, the legislature may wish to require an annual summary of land banking activities. This could be done through a quarterly or semi-annual report to the Legislative Finance Committee.

Land Values

Land value is a key component of land purchases, sales, and exchanges. It is in the trust's best interest to have accurate and defensible land appraisals in order for the land board to meet their statutory obligations. Location, resource values, and access all add or subtract value from the land. During the course of land board transactions, the issue of appraising land with and without access has risen on multiple occasions. To simplify, there are three types of access. Public access, private access held by the adjacent land owner; and hypothetical access. The department does not have a policy to provide direction to appraisers on this matter. A parcel can be accessible by the adjacent land owner and inaccessible to the public. If the adjacent landowner is the willing buyer, access is available. Should a different party wish to purchase that same parcel, access is not available.

The legislature may wish to request legislation to address how land, in particular access, should be evaluated during sales, exchanges, and purchases.

Lack of third party review

Through statute, the legislature has provided all authority for land transactions to the land board. Each land board member has an assigned staff person to monitor the activities of the board. The land board staffers are educated and briefed prior to each board meeting. The issues are presented to the staffers to relay to the board members. The information provided to the board is a combination of what is passed to the board member from these meetings, written material, and any public testimony provided at the hearing. The legislative branch participates in the staff meeting but does not have a formal method to relay concerns to the land board.

In this format, the legislature does not have a role in the land transactions of the state. The one exception is the transfer of lands from a state entity to local government for the good of the public. Those transactions must be reviewed by legislative council, but again are not provided a review by fiscal staff. At times, legislators have requested reviews of specific land transactions in order to determine if any participation is warranted in specific land transactions. This has proved beneficial to some legislators, but not to the process as a whole.

The legislature may wish to consider their role in land transactions. As currently written, all authority has been transferred to the land board. The legislature may wish to consider:

- Requesting legislation for independent review of the larger land transactions
- Formalizing the legislature's relationship to the land board by appointing members to follow land transactions
- Requiring that a financial accounting of activities after each land board meeting be provided to the Legislative Finance Committee

Other policy questions

The issues surrounding land management are not simple. Activities during the interim highlighted other policy issues, which raised the following questions:

- Is the land board able to fulfill their role with current statutory direction regarding their powers and their ultimate duty to the state of Montana?
- Who decides what information is provided to the land board?
- Does the land board receive the appropriate information at the appropriate time to make decisions that are in the best interest of the state?
- As state lands are acquired or exchanged, are the costs associated with land management taken into consideration?
- Does the multiple land use policy of the state provide ample protection to the value of state trust lands and protect the states interest in non-trust lands?
- Are all facts regarding the sale, acquisition, or exchange of state lands part of the public process? For example which trusts are affected, other state land ownership, access revisions, conservation easements and other potential issues?
- Should cash payments be allowed to mitigate other issues, such as access, surrounding land transactions or is this in essence selling a piece of land?
- Is the appropriate agency managing state owned lands?
- When and how should land exchanges between agencies occur?
- What is the priority of the state regarding land management? Multiple uses, conservation, trust returns?
- Can the state accept federal dollars to purchase a specific parcel prior to approval from the land board?
- Is the process to acquire, sell or exchange land equally applied to all types of state land?
- Does the state have an overall land management plan, encompassing all land types for multiple use?
- Do land board policies regarding transactions apply to all agencies, if so how and when?
- The perception is that state land equals trust land. Is this acceptable or should policies apply to all stand lands regardless of which agency is responsible for management?
- Are the all options related to the sale and exchange of land reviewed prior to presenting the transaction to the land board?

The issues surrounding land management are not easily answered. At risk is the income stream to the beneficiaries, the value, aesthetics and health of the land and the use of the state's navigable waters. The legislature has the option of requesting a joint resolution to find answers, and potentially develop policies that provide increased guidance to the challenge of balancing generating revenues, preserving land and meeting multiple land use options.

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	38.00	3.00	0.00	41.00	3.00	0.00	41.00	41.00
Personal Services	1,870,032	496,011	0	2,366,043	503,523	0	2,373,555	4,739,598
Operating Expenses	552,382	180,400	0	732,782	61,658	0	614,040	1,346,822
Equipment	0	155,000	0	155,000	45,000	0	45,000	200,000
Capital Outlay	0	10,000	0	10,000	10,000	0	10,000	20,000
Debt Service	2,316	0	0	2,316	0	0	2,316	4,632
Total Costs	\$2,424,730	\$841,411	\$0	\$3,266,141	\$620,181	\$0	\$3,044,911	\$6,311,052
General Fund	1,955,739	469,700	0	2,425,439	338,876	0	2,294,615	4,720,054
State/Other Special	388,359	347,343	0	735,702	283,937	0	672,296	1,407,998
Federal Special	80,632	24,368	0	105,000	(2,632)	0	78,000	183,000
Total Funds	\$2,424,730	\$841,411	\$0	\$3,266,141	\$620,181	\$0	\$3,044,911	\$6,311,052

Program Description

The Centralized Services Division provides managerial and administrative support services to the department through: 1) the Director's Office, which includes the director, legal staff, and public information; and 2) support services, which manages all financial activities, coordinates information systems, produces publications and graphic materials, and performs general administrative support services. Support services include fiscal affairs, data processing, personnel, legal, reception, and mail. Responsibilities include trust revenue collection and distribution and maintenance of ownership records for trust and non-trust state-owned land.

Program Highlights

Centralized Services Division Major Program Highlights	
♦	The executive is requesting authority to establish a GIS enterprise system to integrate data across the department
♦	The executive request includes equipment for video conferencing to reduce travel costs and travel time
Major LFD Issues	
♦	Reductions in travel to offset the purchase of video conference equipment are not included in the budget

Funding

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Program Funding Table						
Centralized Services						
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000 Total General Fund	\$ 1,955,739	80.7%	\$ 2,425,439	74.3%	\$ 2,294,615	75.4%
01100 General Fund	1,955,739	80.7%	2,425,439	74.3%	2,294,615	75.4%
02000 Total State Special Funds	388,359	16.0%	735,702	22.5%	672,296	22.1%
02039 Forestry-Fire Protection Taxes	51,000	2.1%	76,000	2.3%	25,000	0.8%
02052 Rangeland Improvement Loans	15,000	0.6%	15,000	0.5%	15,000	0.5%
02073 Forestry - Slash Disposal	5,000	0.2%	5,000	0.2%	5,000	0.2%
02145 Broadwater O & M	9,500	0.4%	12,500	0.4%	12,500	0.4%
02272 Renewable Resources Grnt/Loans	5,000	0.2%	26,336	0.8%	28,250	0.9%
02280 Forest Resources-Timber Sales	78,000	3.2%	78,000	2.4%	78,000	2.6%
02340 Coal Sev. Tax Shared Ssr	5,000	0.2%	10,000	0.3%	10,000	0.3%
02430 Water Right Appropriation	65,591	2.7%	65,000	2.0%	65,000	2.1%
02431 Water Adjudication	-	-	28,351	0.9%	28,393	0.9%
02432 Oil & Gas Era	63,412	2.6%	63,500	1.9%	63,000	2.1%
02449 Forest Resources-Forest Improv	32,000	1.3%	40,000	1.2%	38,000	1.2%
02450 State Lands Res Dev	26,444	1.1%	26,444	0.8%	26,444	0.9%
02458 Reclamation & Development	5,000	0.2%	151,808	4.6%	136,907	4.5%
02825 Water Well Contractors	5,000	0.2%	5,000	0.2%	5,000	0.2%
02938 Tlmd - Administration	22,412	0.9%	132,763	4.1%	135,802	4.5%
03000 Total Federal Special Funds	80,632	3.3%	105,000	3.2%	78,000	2.6%
03255 Csd Federal Indirect	80,632	3.3%	105,000	3.2%	78,000	2.6%
Grand Total	\$ 2,424,730	100.0%	\$ 3,266,141	100.0%	\$ 3,044,911	100.0%

The Centralized Services Division is funded primarily with general fund, a variety of resource based accounts such as revenue from timber sales and taxes on oil and gas wells, and federal indirect grant reimbursements. To obtain funding the department charges overhead rates to other divisions to recover costs. The rate varies depending upon the type and amount of managerial, payroll, contract, and accounts payable services provided to the divisions.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
Fiscal 2008					Fiscal 2009				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				385,310					392,987
Vacancy Savings				(90,215)					(90,521)
Inflation/Deflation				3,947					5,091
Fixed Costs				91,447					(12,478)
Total Statewide Present Law Adjustments				\$390,489					\$295,079
DP 2101 - GIS Enterprise Project IT									
2.00	0	195,164	0	195,164	2.00	0	180,263	0	180,263
DP 2102 - CSD Operating Adjustment									
1.00	0	104,758	0	104,758	1.00	0	107,839	0	107,839
DP 2103 - CSD Equipment IT OTO									
0.00	30,000	11,000	5,000	46,000	0.00	0	9,000	3,000	12,000
DP 2104 - GIS Enterprise Equipment IT OTO									
0.00	105,000	0	0	105,000	0.00	25,000	0	0	25,000
Total Other Present Law Adjustments									
3.00	\$135,000	\$310,922	\$5,000	\$450,922	3.00	\$25,000	\$297,102	\$3,000	\$325,102
Grand Total All Present Law Adjustments				\$841,411					\$620,181

**LFD
COMMENT**

The components driving the personal service adjustment are about \$34,200 for vacancies in the base year and \$50,400 in non-legislative pay adjustments. The remainder is to annualize the previous pay plan, longevity adjustments, and increases to employer paid health insurance premiums. The non-legislative pay increases are attributed to market adjustments provided under pay plan 20.

DP 2101 - GIS Enterprise Project IT – The executive recommends 2.00 FTE and state special revenue authority to implement an enterprise GIS to provide an organization-wide approach that facilitates the integration, implementation, operation, and management of tabular and spatial information. This would assist in streamlining work processes, allowing integration of data and systems, improving accessibility and data management, reducing duplication of efforts and costs (hardware, software and personnel), providing rapid automated updating, and improving access to data for decision-making.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: Currently the department creates and maintains most of its spatial data at a local, bureau or division level with little to no emphasis on an agency-wide (enterprise) approach. This has led to overlap and incompatibility of datasets along with other inefficiencies. The implementation of an enterprise GIS will provide an organization-wide approach that facilitates the integration, implementation, operation, and management of tabular and spatial information.

Goal: Implement an enterprise GIS system for DNRC to provide an organization-wide approach that facilitates the integration, implementation, operation and management of tabular and spatial information.

**LFD
COMMENT**

The LFD opted to replace the agency provided write up with an excerpt from the department's information technology (IT) plan filed with the Information Technology and Services Division (ITSD) of the Department of Administration (DofA).

Performance Criteria: DNRC will work with ITSD to develop the GIS infrastructure that meets the needs of the agency and other agencies. A project plan will be developed with specific goals and tasks and progress measured against that plan. Technical requirements will be developed using agency GIS specialists working with an agency GIS coordinator.

**LFD
COMMENT**

The department's IT plan documents objectives and measures for this proposal. They are:

Objective: Hire a GIS coordinator to facilitate development of an enterprise DRNC GIS system.

Measures: Hire a GIS coordinator by the June 2006.

Objective: Design an infrastructure for GIS that meets the needs of the Department in FY2007 and through FY2011. Coordinate development of interfaces with other GIS systems in the state.

Measures: Design the first stage of the GIS system by June 2006. Build or contract for the servers, databases and software needed for the system by end of the second quarter 2007. Develop a robust, secure, recoverable system for DNRC by end of FY2008. Interface the DNRC GIS system into the state GIS system for information and data sharing.

Objective: Work with NRIS and/or ITSD for a storage system for historical aerial photos (1930s-1950s and 1979) used by water rights, other DNRC divisions, and other agencies.

Measures: Currently working on historical aerial photo archive and storage.

Goal: system in place by July 2007

**LFD
COMMENT**

Objective: Provide for Citrix access to GIS software for end-users who have slow connections or are only occasional users of GIS systems.

Measures: Establish ESRI software on central Citrix server by fourth quarter 2006.

Objective: Establish division licensing model or tie into state licensing to reduce cost and maintenance of ESRI software while providing appropriate access for DNRC staff.

Measures: Negotiate license agreement with ESRI that is cost effective for DNRC. July 2006.

Objective: Create GIS natural resource layers and use them to identify priority areas for stewardship, forest and fire management plan development.

Measures: Develop a robust, secure, recoverable system for use by end of FY2008.

Milestones: Work has already begun on planning the GIS Enterprise infrastructure. A team of IT staff and GIS staff from ITSD and DNRC are working on a plan for hardware and software to support GIS within the Water Resources Division of DNRC. Expanding this system to incorporate other divisions of DNRC would begin in the first quarter of FY 2008. A detailed implementation plan will be developed in conjunction with funding of this DP and will stage expansion of the infrastructure to include all divisions of DNRC. Key to this development is funding for a GIS coordinator in the IT Bureau and a GIS Analyst in the Forest Management Bureau of TLMD.

**LFD
COMMENT**

The department's IT plan provides for milestones within the objectives provided above.

FTE: Work on this project will be done by the GIS Coordinator and GIS specialists. (A modified position was created for the GIS coordinator position in FY 2007 to complete critical assessment and planning measures.) Coordination will be provided by a project manager in ITSD and the IT Bureau Chief in DNRC. They will coordinate with ITSD staff on deployment of the hardware and software in the ITSD data center.

Funding: Funding is comprised of \$195,164 from state special revenue in FY 2008 and \$180,263 in FY 2009.

Obstacles: Cooperation within the agency in accomplishing the goal of an Enterprise GIS system is critical. The project will need widespread agency support, proper training for staff supporting the systems and development of technology partnerships to succeed. This project has already received endorsement by GIS staff at all levels of DNRC and from GIS staff in other agencies. The project will require strong leadership, cooperation and adequate funding for hardware, software and training to succeed.

Risk: For many years DNRC relied on a staff of cartographers to draw maps showing boundaries of state lands, water resources, forests, natural resources, conservation efforts and other visual representations of the work of DNRC staff. Those cartographers are being replaced by GIS specialists who convert the information in databases to visual representations on computers using GIS. This work is happening now on individual desktops and in numerous data models. Not developing an enterprise GIS infrastructure could lead to data loss, incompatibility of data, data duplication, difficulty in finding GIS data and inability to meet the business requirements of the department.

**LFD
ISSUE**

Request is a New Proposal

This proposal should be classified as a new proposal rather than a present law adjustment as it is a new function within state government. In addition, if approved this proposal would have on-going operating costs past the biennium.

Funding

This proposal is funded with state special revenue authority from two sources. The trust land administration account provides approximately 35 percent of the funding. The responsibilities of the trust land management program are such that the GIS system could assist with workloads.

The remainder of the package is funded with reclamation and development dollars, an RIT related fund. The proposal was not evaluated through HJR 36, the RIT study. The following is provided to evaluate this proposal on the same level as other programs utilizing RIT funds. (see agency overview for discussion of RIT)

- Is the function consistent with the use of RIT interest or RIGWA taxes?
- Statute directs RIT interest to be used to improve the total environment or rectify damage to the environment. This proposal does not directly meet those criteria. However, the GIS system could be seen as a tool used to improve the total environment.
- Are measurable goals and objectives in place?
- The development of the system is documented in the department's IT plan, including measurable goals and objectives.
- Is there a monitoring plan?
- Included in the department's IT plan.
- What other funding is available?
- There is not a specific state special revenue fund for this type of work. If all departments are to use this system, there may be other funds that could contribute to the proposal, or utilize general fund.

The issue for the legislature is to determine if RIT funding is appropriate; or, if the proposal benefits the state as a whole, whether general fund would be a better source. If the legislature approves this package, they may wish to:

- Replace RIT funds with general fund
- Reduce RIT funds and include other state special sources such as water right appropriation fees

DP 2102 - CSD Operating Adjustment - The executive requests 1.00 FTE and state special revenue authority for increased operating costs. The FTE would be a network administrator to assist end-users, work on security and provide software training to employees. Operating adjustments are requested for replacement computers, IT training, rent and contracted services.

**LFD
COMMENT**

The department would normally replace computers in the base year. However, the department utilized some of this authority to cover increased utility costs and needs the authority restored to maintain the replacement cycle.

DP 2103 - CSD Equipment IT OTO - The executive requests one-time-only authority to replace aging office equipment and utilize \$30,000 general fund authority to purchase videoconferencing equipment in Helena, Missoula, and Kalispell to reduce staff travel and travel expenses.

**LFD
ISSUE**

Request is for a New proposal/No Offsetting Reduction in Costs

The request for videoconference equipment is being made to reduce state travel and related expense. This should be categorized as a new proposal.

The executive budget does not contain a corresponding \$30,000 general fund reduction in staff travel. If the legislature approves the request, they may wish to:

- Approve the decision package and require the agency to report travel savings incurred from the use of videoconferencing
- Approve the decision package and reduce the department's travel budget by \$30,000 in general fund authority

DP 2104 - GIS Enterprise Equipment IT OTO - The executive recommends one-time-only general fund authority to fund the infrastructure for a GIS enterprise project. The infrastructure would include servers, server software, geodata storage, and connection of those systems to a proposed federated GIS system for the State of Montana. The proposal calls for a tiered approach with an initial hardware and software purchase in FY 2008 and expansion of that system in FY2009 to meet anticipated growth in the system during development.

**LFD
COMMENT**

If the legislature does not approve DP 2101-GIS Enterprise Project IT, Then this package should not be approved either. Unlike DP 2101, this proposal is funded with general fund. See the discussion under DP 2101 regarding funding issues.

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	20.50	0.00	1.00	21.50	0.00	1.00	21.50	21.50
Personal Services	917,514	260,923	37,669	1,216,106	278,099	37,696	1,233,309	2,449,415
Operating Expenses	376,782	447,307	272,500	1,096,589	448,933	272,500	1,098,215	2,194,804
Equipment	48,345	5,000	0	53,345	5,000	0	53,345	106,690
Grants	0	0	5,000	5,000	0	5,000	5,000	10,000
Total Costs	\$1,342,641	\$713,230	\$315,169	\$2,371,040	\$732,032	\$315,196	\$2,389,869	\$4,760,909
State/Other Special	1,256,978	798,893	315,169	2,371,040	817,695	315,196	2,389,869	4,760,909
Federal Special	85,663	(85,663)	0	0	(85,663)	0	0	0
Total Funds	\$1,342,641	\$713,230	\$315,169	\$2,371,040	\$732,032	\$315,196	\$2,389,869	\$4,760,909

Program Description

The Oil and Gas Conservation Division administers the Montana oil and gas conservation laws to promote conservation and prevent waste in the recovery of these resources through regulation of exploration and production of oil and gas. The division: 1) issues drilling permits; 2) classifies wells; 3) establishes well spacing units and pooling orders; 4) inspects drilling, production, and seismic operations; 5) investigates complaints; 6) does engineering studies; 7) determines incremental production for enhanced recovery and horizontal wells to implement the tax incentive program for those projects; 8) operates the underground injection control program; 9) plugs orphan wells; and 10) collects and maintains complete well data and production information.

Program Highlights

Oil and Gas Conservation Division Major Program Highlights	
♦	The program is seeking authority for coal bed methane activity that was delayed due to litigation
Major LFD Issues	
♦	One-time only appropriations from the 2005 session are being requested as present law base adjustments

Funding

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Program Funding Table Oil & Gas Conservation Division						
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
02000 Total State Special Funds	\$ 1,256,978	93.6%	\$ 2,371,040	100.0%	\$ 2,389,869	100.0%
02432 Oil & Gas Era	1,256,978	93.6%	2,371,040	100.0%	2,389,869	100.0%
03000 Total Federal Special Funds	85,663	6.4%	-	-	-	-
03356 Oil & Gas Federal	85,663	6.4%	-	-	-	-
Grand Total	<u>\$ 1,342,641</u>	<u>100.0%</u>	<u>\$ 2,371,040</u>	<u>100.0%</u>	<u>\$ 2,389,869</u>	<u>100.0%</u>

The division is funded through taxes levied on oil and gas wells and the class II annual operating fee. By statute (15-36-324, MCA) a percentage of oil production taxes and natural gas taxes are deposited to the account for the board's use. The board is authorized by statute (82-11-131, MCA) to set privilege and license taxes up to 3/10 of 1 percent of the market value of each barrel of crude petroleum produced and of each 10,000 cubic feet of natural gas produced to comply with 15-36-324, MCA. Section 82-11-137, MCA provides for a maximum \$300 annual operating fee for each class II injection well. The board set the fee at \$300. The division also receives federal funding from the Environmental Protection Agency (EPA) for the underground injection control program.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments											
-----Fiscal 2008-----						-----Fiscal 2009-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services					262,470					264,653	
Vacancy Savings					(47,197)					(47,287)	
Inflation/Deflation					2,797					3,159	
Fixed Costs					10,761					11,749	
Total Statewide Present Law Adjustments					\$228,831						\$232,274
DP 2201 - O&G Regulatory Operating Adjustment	0.00	0	413,241	0	413,241	0.00	0	422,249	0	422,249	
DP 2202 - Underground Injection Control (UIC) Operating Adj.	0.00	0	71,158	0	71,158	0.00	0	77,509	0	77,509	
Total Other Present Law Adjustments											
	0.00	\$0	\$484,399	\$0	\$484,399	0.00	\$0	\$499,758	\$0	\$499,758	
Grand Total All Present Law Adjustments					\$713,230						\$732,032

DP 2201 - O&G Regulatory Operating Adjustment - The executive requests a base adjustment of state special revenue authority. Of the biennial request, \$600,000 is to restore the base budget authority for coal bed methane contracted studies not performed because of litigation. The remainder is attributable to board per diem, increases to contracted legal services, exempt staff pay, janitorial services, and rent.

DP 2202 - Underground Injection Control (UIC) Operating Adj. - The executive requests state special revenue of authority to restore board per diem, annualize contract budgets for the board attorney, agency legal services, janitorial and database services, fund exempt staff pay increases and increased travel, as well as cover other increased operating expenses.

New Proposals

New Proposals											
-----Fiscal 2008-----						-----Fiscal 2009-----					
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 2203 - O&G Public Assess Data System IT	22	1.00	0	212,669	0	212,669	1.00	0	212,696	0	212,696
DP 2204 - O&G Education & Outreach BIEN	22	0.00	0	62,500	0	62,500	0.00	0	62,500	0	62,500
DP 2205 - O&G North American Prospect Exposition (NAPE) BIEN	22	0.00	0	7,500	0	7,500	0.00	0	7,500	0	7,500
DP 2208 - Temporary Relocation Costs RST/OTO/BIEN	22	0.00	0	32,500	0	32,500	0.00	0	32,500	0	32,500
Total	1.00	\$0	\$315,169	\$0	\$315,169	1.00	\$0	\$315,196	\$0	\$315,196	

DP 2203 - O&G Public Assess Data System IT - The executive recommends 1.0 FTE and special revenue authority to continue the historical records acquisition project started in the 2005 biennium. The project involves the scanning and microfilming of historical records and making them available for Internet or other public accessibility. The FTE would scan and index historical documents housed in the Billings office. In addition, operating funding would be used to contract with the Secretary of State's Office to microfilm historical records housed in the Helena office.

**LFD
COMMENT**

The 2005 legislature approved this package as one-time-only. If approved, this proposal would convert modified FTE to permanent. The department is unable to estimate how long this project is going to take. If the legislature is interested in monitoring progress, the package could be conditioned as one-time-only and require a progress report during the 2009 legislative session.

DP 2204 - O&G Education & Outreach BIEN - The executive request a biennial appropriation of state special revenue toll allow the division to contract with Montana Tech to provide summer petroleum workshops for teachers and to provide matching scholarship funds for an essay contest arising out of those workshops.

**LFD
COMMENT**

The first workshop, with 19 participants, was held in June 2006. The first scholarship awards to essay contest winners will be in the spring of 2007. This is an ongoing workshop and essay contest.

DP 2205 - O&G North American Prospect Exposition (NAPE) BIEN - The executive requests a biennial appropriation to provide funding for staff and board members to sponsor an information booth at the annual North American Prospect Expedition (NAPE) in Houston. Funding will provide travel, meals, lodging, registration, booth rental, and conference room costs.

**LFD
COMMENT**

The 2005 legislature approved this package as one-time-only. If approved, this proposal would add base budget authority for this purpose.

DP 2208 - Temporary Relocation Costs RST/OTO/BIEN - The executive recommends this one-time-only biennial budget request for state special revenue of \$65,000 for temporary office space for the Billings staff and relocation costs.

**LFD
COMMENT**

A proposal to remodel the Billings Oil and Gas office will be presented to the Long Range Planning Subcommittee during the 2007 legislative session for the 2009 biennium budget. Leased space will be necessary if the remodel/expansion of the existing space is approved.

Language

"The department is authorized to decrease state special revenue money in the underground injection control program and increase federal special money by a like amount when the amount of federal EPA funds available for the program becomes known. Any federal special revenue is to be spent before state special revenue."

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	24.50	0.00	1.00	25.50	0.00	1.00	25.50	25.50
Personal Services	1,264,390	225,843	51,462	1,541,695	229,125	51,496	1,545,011	3,086,706
Operating Expenses	1,331,953	284,357	246,738	1,863,048	293,456	251,744	1,877,153	3,740,201
Equipment	54,996	0	0	54,996	0	0	54,996	109,992
Capital Outlay	0	0	0	0	0	0	0	0
Local Assistance	0	200,000	0	200,000	200,000	0	200,000	400,000
Grants	1,199,806	125,000	150,000	1,474,806	125,000	150,000	1,474,806	2,949,612
Debt Service	0	0	0	0	0	0	0	0
Total Costs	\$3,851,145	\$835,200	\$448,200	\$5,134,545	\$847,581	\$453,240	\$5,151,966	\$10,286,511
General Fund	1,299,129	137,594	0	1,436,723	139,631	0	1,438,760	2,875,483
State/Other Special	2,305,218	678,456	448,200	3,431,874	681,140	453,240	3,439,598	6,871,472
Federal Special	246,798	19,150	0	265,948	26,810	0	273,608	539,556
Total Funds	\$3,851,145	\$835,200	\$448,200	\$5,134,545	\$847,581	\$453,240	\$5,151,966	\$10,286,511

Program Description

The Conservation and Resource Development Division provides technical, administrative, financial and legal assistance to Montana's 58 conservation districts by administering the Conservation District Act, Montana Rangeland Resources Act, and the Natural Streambed and Land Preservation Act. The division also manages several loan and grant programs for local communities, local governments, state agencies, and private citizens. The programs include the state revolving fund, which currently includes \$150 million loaned to communities for water and waste water systems, coal severance tax loans to governmental entities totaling \$45 million, and private loans for \$16.5 million. Grant programs administered by the division include the Reclamation Development, Renewable Resource, and Conservation District grant programs.

Program Highlights

Conservation and Resource Development Division Major Program Highlights	
♦	The executive is seeking to increase support of the Yellowstone River District Council and the Missouri River District Council
♦	Authority for the conservation districts to administer the coal bed methane damage program is being requested
Major LFD Issues	
♦	RIT related funds are requested for river resource activities
♦	Reimbursements to conservation districts to administer the coal bed methane damage program are not limited in statute

Funding

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Program Funding Table						
Conservation/Resource De						
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000 Total General Fund	\$ 1,299,129	33.7%	\$ 1,436,723	28.0%	\$ 1,438,760	27.9%
01100 General Fund	1,299,129	33.7%	1,436,723	28.0%	1,438,760	27.9%
02000 Total State Special Funds	2,305,218	59.9%	3,431,874	66.8%	3,439,598	66.8%
02015 Tsep Regional Water System	535,304	13.9%	649,304	12.6%	649,304	12.6%
02052 Rangeland Improvement Loans	8,109	0.2%	8,109	0.2%	8,109	0.2%
02270 Treasure State Endowment	27,999	0.7%	28,000	0.5%	28,000	0.5%
02272 Renewable Resources Grnt/Loans	294,282	7.6%	299,282	5.8%	300,282	5.8%
02316 Go94B/Ban 93D Admin	18,858	0.5%	19,708	0.4%	20,048	0.4%
02340 Coal Sev. Tax Shared Ssr	765,779	19.9%	890,779	17.3%	890,779	17.3%
02433 Grazing District Fees	15,333	0.4%	15,333	0.3%	15,333	0.3%
02458 Reclamation & Development	639,554	16.6%	1,221,359	23.8%	1,227,743	23.8%
02490 Drinking Water Investment	-	-	200,000	3.9%	200,000	3.9%
02694 Coal Bed Methane Protection	-	-	100,000	1.9%	100,000	1.9%
03000 Total Federal Special Funds	246,798	6.4%	265,948	5.2%	273,608	5.3%
03014 Dw Srf Ffy05 Grant	100,003	2.6%	120,003	2.3%	122,003	2.4%
03178 Res Dev & Cons - Fed	35,651	0.9%	35,651	0.7%	35,651	0.7%
03440 Dw Srf 03	15,000	0.4%	-	-	-	-
03442 Dw Srf 03	-	-	5,000	0.1%	7,000	0.1%
03457 Wpc Srf Fy03 Grant	96,144	2.5%	105,294	2.1%	108,954	2.1%
Grand Total	<u>\$ 3,851,145</u>	<u>100.0%</u>	<u>\$ 5,134,545</u>	<u>100.0%</u>	<u>\$ 5,151,966</u>	<u>100.0%</u>

This program is primarily funded with general fund, resource indemnity trust (RIT) accounts, and coal severance taxes.

RIT funding is used to administer the Reclamation and Development Grants Program (RDGP) and the Renewable Resources Grant and Loan Program (RRGLP). The RDGP is a state-funded grant program that assists any department, agency, and division of state government, tribal government, board, or commission to indemnify the people of the state for the effects of mineral development on public resources. The RRGLP funds a variety of natural resource projects including groundwater studies, irrigation projects, water and soil conservation, and public wastewater projects primarily through grants administered by the department. Coal severance tax is used to provide grants to conservation districts for natural resource related projects such as streambed stabilization, soil conservation, educational activities, and demonstrations of new technologies.

The Natural Resource Development Bureau utilizes nearly half of the division general fund to administer grant and loan programs, provide assistance to conservation districts for the administration of water reservations, and assist landowners to develop new irrigation. The Conservation District Bureau utilizes just over half of the available general fund to assist Montana conservation and grazing districts. The remaining program funding includes miscellaneous state special revenue, federal drinking water and water pollution control funds, and miscellaneous federal sources used to supplement division activities.

Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2008					Fiscal 2009					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				287,937						291,356
Vacancy Savings				(62,094)						(62,231)
Inflation/Deflation				4,867						5,710
Fixed Costs				10,490						10,746
Total Statewide Present Law Adjustments				\$241,200						\$245,581
DP 2301 - CARDD Operating Adjustment	0.00	23,000	82,000	10,000	115,000	0.00	23,000	86,000	14,000	123,000
DP 2302 - Drinking Water Loan Program Assistance	0.00	0	200,000	0	200,000	0.00	0	200,000	0	200,000
DP 2306 - Regional Water Systems	0.00	0	114,000	0	114,000	0.00	0	114,000	0	114,000
DP 2307 - Yellowstone River Council	0.00	0	40,000	0	40,000	0.00	0	40,000	0	40,000
DP 2312 - Watershed Grants	0.00	0	125,000	0	125,000	0.00	0	125,000	0	125,000
Total Other Present Law Adjustments				\$594,000	0.00	\$23,000	\$565,000	\$14,000		\$602,000
Grand Total All Present Law Adjustments				\$835,200						\$847,581

LFD COMMENT

Personal Services Adjustments – The components driving the personal service adjustment includes \$370,000 for vacancies in the base year and \$27,840 for non-legislative pay adjustments. The remainder is to annualize the previous pay plan, longevity adjustments, and increases to employer paid health insurance premiums. The non legislative pay increases are attributed to market adjustments provided under pay plan 20.

DP 2301 - CARDD Operating Adjustment - The executive recommends \$115,000 in FY 2008 and \$123,000 in FY 2009 of general, state special, and federal revenue authority to restore the base budget due to open positions, the continuation of the St Mary's Project and work group, increased rent, contracted services, and operating costs. The general fund would be used for operating expenses in the Conservation District Bureau.

LFD ISSUE

This adjustment includes \$29,000 in travel related expenses. If the department implements video conferencing, this entire adjustment may not be warranted. For further discussion, see DP 2103 in the Central Services Division.

DP 2302 - Drinking Water Loan Program Assistance - The executive requests \$200,000 of state special revenue each year of the 2009 biennium to match federal authority for hardship communities in the Safe Drinking Water program. This would allow the state to provide assistance to disadvantaged communities who borrow from the program. The funding is from the interest derived from the investments of the revolving fund.

DP 2306 - Regional Water Systems - The executive requests an increase in base authority for the continued development of Dry Prairie, Dry Red Water, Central Montana, and the North Central Regional Water System. These systems will facilitate the construction of regional water systems for small communities. This would provide resources to maintain local support, work toward securing federal assistance, and negotiate needed agreements to work on engineering and environmental planning for the various systems.

DP 2307 - Yellowstone River Council - Thirteen conservation districts have joined together to coordinate comprehensive resource management issues on the Yellowstone River. The executive requests an increase in state special revenue of \$40,000 per year to pay for Yellowstone River Council expenses.

**LFD
ISSUE**
Measurable Criteria

According to the council's website, their goal is to ensure a healthy Yellowstone River and riparian system capable of sustaining the needs of Montana citizens and the communities they serve. The council believes they can obtain their goal by encouraging communication and cooperation through collaboration, education, incentives and voluntary action. To accomplish their goal the council has determined that there is a need for:

- Scientific information on which to base management decisions
- Broad-based local, regional and national input
- Technical and financial assistance to address sustainable use issues on the Yellowstone River

Because of this requested increase, the issues for the legislature are:

- Is there sufficient evidence that the council is making progress towards their goal?
- Is the use of general fund appropriate? Does the overall state benefit from this proposal?

Performance Criteria: The council does not publish a set of performance criteria that would be utilized in measuring their progress towards the overall goal of sustaining a healthy Yellowstone River. The council does publish an annual report where individual research activities have demonstrated goals, some measurable objectives, and timelines.

Given these issues the legislature may wish to track progress as it occurs. To do this the legislature could request performance management reporting after critical milestones as language in HB 2 or in a companion bill.

Funding: The executive is requesting general fund for this increase. Because the activities are targeted to improve the total environment, RIT could be utilized for this program.

To address the issues the legislature, may wish to:

- Approve the decision package and require measurable performance criteria written into the contract for the Yellowstone River Council operations
- Approve the decision package and replace the general fund with other state special authority such as renewable resource funding

DP 2312 - Watershed Grants - The executive requests \$125,000 each year of the biennium for the watershed planning and assistance grant (WPAG) program. The program assists conservation districts and affiliated local watershed groups with expenses associated with watershed planning. Grants can be used for the collection of baseline resource information, facilitators, development of a watershed management plan, training, educational efforts, and incidental costs associated with watershed planning.

**LFD
ISSUE****Coal Severance Shared Revenue Funding**

This request is funded by the coal severance tax shared state special revenue fund.

Figure 14
Coal Tax Shared Revenue Account
2007 Biennium

Component	FY 2008	FY 2009	Biennium	Percentage
Revenues*				
5.46 percent of Coal Tax Revenues	\$2,061,000	\$1,975,000	\$4,036,000	
Executive Budget				
Montana State Library - Statewide Library Resources	571,511	571,511	1,143,022	27.26%
DNRC - Conservation Districts/Centralized Services	900,779	900,779	1,801,558	42.96%
Agriculture - Growth Through Ag	625,609	623,591	1,249,200	29.79%
Total	\$2,097,899	\$2,095,881	\$4,193,780	100.00%
Biennial Difference - Transferred to the General Fund			-\$157,780	

*Revenues are as estimated by the Revenue and Transportation Committee

Expenditures are as requested in the executive budget

December 5, 2006

The department receives coal tax revenues through a shared state special revenue fund (15-35-108, MCA). This account receives 5.46 percent of all coal tax earnings. According to statute the funds in this account are to be allocated by the legislature for basic library services for the residents of all counties through library federations and payment of costs of participating in regional and national networking and for conservation districts and the

Montana Growth Through Agriculture Act. The appropriations must be coordinated to ensure actual revenues are not over-appropriated. Because any unspent or non-appropriated balance remaining is deposited into the general fund, appropriations have a direct bearing on the general fund.

As shown, using the estimates of the Revenue and Transportation Committee, the executive would over-appropriate revenues by \$157,780 over the 2009 biennium. The figure also illustrates that the three state agencies receive varying percentages of the total appropriation.

The legislature may wish to consider:

- Appropriating the estimated revenues to the department, the Library Commission, and the Department of Agriculture
- Allocating the reductions to the appropriations by percentage of the appropriation each agency receives

New Proposals

-----Fiscal 2008-----						-----Fiscal 2009-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2303 - Irrigation Assistance										
23	0.00	0	150,000	0	150,000	0.00	0	150,000	0	150,000
DP 2308 - Missouri River Council										
23	0.00	0	128,200	0	128,200	0.00	0	133,240	0	133,240
DP 2311 - Conservation District Watershed Position										
23	1.00	0	70,000	0	70,000	1.00	0	70,000	0	70,000
DP 2314 - Conservation Dist Operating-Coal Bed Methane RST										
23	0.00	0	100,000	0	100,000	0.00	0	100,000	0	100,000
Total	1.00	\$0	\$448,200	\$0	\$448,200	1.00	\$0	\$453,240	\$0	\$453,240

DP 2303 - Irrigation Assistance - The executive requests \$150,000 in FY 2008 and FY 2009 of state special revenue for the Irrigation Assistance Program to provide grants to develop new irrigation or increase the value of existing agricultural land through improved irrigation. The FY 2007 biennium appropriation for this purpose was one-time-only.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: This program is a result of new irrigation development in Montana and will provide an opportunity for Montana farmers and ranchers to invest in high value crops and irrigate lands, which will sustain agricultural operators and surrounding communities.

Goal: The goal of the program is to provide resources to produce higher value crops, and potentially bring processing facilities to Montana. A goal of 100,000 acres in new development each year has been established.

Performance Criteria: The number of systems using the program and acres with higher value crops can be reported yearly.

Milestones: The milestone will be set for X amount of acres to be developed yearly. Efficiency of systems to be reported yearly.

LFD COMMENT

The department was asked to rewrite this milestone. They provided: "To have 3000 acres of new land under irrigation annually", which is actually performance criteria.

FTE: No new FTE would be hired. Existing staff will be used.

Funding: No new fees will be charged.

Obstacles: Huge obstacles for irrigation development stand in the way in the areas of pumping costs and materials cost. Many of the projects we are assisting with are lifting water at a proposed energy cost on the open market of \$70 or more per acre. In addition, the materials to develop a new irrigation system can entail over \$1,800 per acre. Both of these obstacles are being addressed and can be reduced but not eliminated.

Risk: Economic development will suffer. This program assists in the development of several thousand acres of new irrigation each year. This will help to stop the decline some rural communities are experiencing.

LFD ISSUE

Incomplete Information/RIT Funding

The proposal does not provide a clear picture of what the department intends to accomplish with this program. The milestones should provide a snap shot of what will be accomplished in the biennium. This could include when grant cycles will start, when grants will be released, and any public education regarding the grant program. The lack of this information would make it difficult for the legislature to determine if significant portions of the program were completed during the interim.

In addition, during the HJR 36 RIT study, the LFC subcommittee suggested that this program be rolled into the renewable resource grant program. This proposal is funded with reclamation and development dollars.

The legislature may wish to:

- Receive program milestones prior to deliberations
- Switch the funding to renewable resources to reflect the intentions of the RIT subcommittee

DP 2308 - Missouri River Council - Fifteen conservation districts have joined together to coordinate comprehensive resource management issues on the Missouri River. The executive requests base authority to pay expenses related to the council's work.

**LFD
ISSUE**
Measurable Criteria

The mission of the Missouri River Council is to represent natural resource and environmental interests on the Missouri River. This council believes the conservation of the river and its corridor and the sustainability of its various uses can best be accomplished through grassroots collaboration, education, incentives, and voluntary action. The activities of the Missouri River Council are similar to the Yellowstone River Council as described in DP 2307 and the issue of performance criteria is also similar.

Performance Criteria

The council does not publish a set of performance criteria that would be utilized in measuring their progress towards the overall goal of sustaining a healthy Missouri River. The legislature may wish to track progress as it occurs. To do this the legislature could request performance management reporting after critical milestones as language in HB 2 or in a companion bill.

Funding

The issue for the legislature is whether to appropriate funding without knowing how progress towards the goals is measured. Prior to deliberations the legislature may wish to review any performance criteria of the council.

DP 2311 - Conservation District Watershed Position - The executive requests 1.00 FTE and state special revenue to coordinate watershed management between the Conservation Districts (CDs), federal, and state agencies. The Conservation District Bureau provides technical and financial assistance to CDs in support of watershed efforts and participates on the Watershed Coordinating Council.

DP 2314 - Conservation Dist Operating-Coal Bed Methane RST - The executive requests state special revenue to provide funding to the conservation districts to process landowner claims for the coal bed methane protection program. Funds would provide legal and technical assistance to evaluate landowner claims.

**LFD
COMMENT**

The coal bed methane (CBM) protection program was established for the purpose of compensating private landowners and water rights holders for damage to land and to water quality and availability that is attributable to the development of CBM wells. Statute limits the payments in FY 2008 and 2009 to emergency situations where the loss of a water supply must be replaced to avoid substantial damage. The conservation districts are charged with managing the program and are eligible for reimbursement of expenses associated with managing the program. The statute does not limit the reimbursement to any particular cost or activity.

Language

"The department is appropriated up to \$600,000 for the 2009 biennium from the state special revenue account established in 85-1-604, MCA, for the purchase of prior liens on property held as loan security as required by 85-1-618, MCA."

"The department is authorized to decrease federal special revenue in the Pollution Control and/or Drinking Water Revolving Fund Loan programs and increase state special revenue by a like amount within the Special Administration Account when the amount of federal EPA CAP funds have been expended or federal funds and bond proceeds will be used for other program purposes."

"There is appropriated up to \$1,000,000 for the biennium from the Coal Bed Methane Protection Account to fund possible landowner/water right holder claims for emergency loss of water."

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	149.50	0.00	5.50	155.00	0.00	5.50	155.00	155.00
Personal Services	7,033,696	1,139,151	239,056	8,411,903	1,164,123	239,661	8,437,480	16,849,383
Operating Expenses	2,459,393	2,290,209	321,772	5,071,374	449,789	303,994	3,213,176	8,284,550
Equipment	13,188	17,858	0	31,046	(12,516)	0	672	31,718
Capital Outlay	3,000	0	0	3,000	0	0	3,000	6,000
Transfers	0	0	0	0	0	0	0	0
Debt Service	371,731	98,013	0	469,744	98,013	0	469,744	939,488
Total Costs	\$9,881,008	\$3,545,231	\$560,828	\$13,987,067	\$1,699,409	\$543,655	\$12,124,072	\$26,111,139
General Fund	6,271,348	724,106	380,969	7,376,423	743,572	366,558	7,381,478	14,757,901
State/Other Special	3,523,534	2,708,083	179,859	6,411,476	842,674	177,097	4,543,305	10,954,781
Federal Special	86,126	113,042	0	199,168	113,163	0	199,289	398,457
Total Funds	\$9,881,008	\$3,545,231	\$560,828	\$13,987,067	\$1,699,409	\$543,655	\$12,124,072	\$26,111,139

Program Description

The Water Resources Division is responsible for many programs associated with the uses, development, and protection of Montana's water. It manages and maintains the state-owned dams, reservoirs, and canals. The division also develops and recommends in-state, interstate, and international water policy to the director, Governor, and legislature. The division consists of an administration unit and four bureaus: Water Management Bureau, Water Rights Bureau, State Water Projects Bureau, and the Water Operations Bureau.

Program Highlights

Water Resources Division Major Program Highlights	
<ul style="list-style-type: none"> ◆ The executive is seeking authority to repair four water projects ◆ Technical assistance is requested to provide scientific support to the legal challenge of the Yellowstone Water Compact ◆ Funding to implement the propose surface water ground water permitting legislation is proposed 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The appropriation for water projects does not adequately address backlog of maintenance and rehabilitation ◆ The plan to provide technical assistance to the Yellowstone Water Compact is incomplete 	

Funding

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Program Funding Table							
Water Resources Division							
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009	
01000 Total General Fund	\$ 6,271,348	63.5%	\$ 7,376,423	52.7%	\$ 7,381,478	60.9%	
01100 General Fund	6,271,348	63.5%	7,376,423	52.7%	7,381,478	60.9%	
02000 Total State Special Funds	3,523,534	35.7%	6,411,476	45.8%	4,543,305	37.5%	
02104 Miscellaneous State Spec Rev	-	-	81,050	0.6%	84,292	0.7%	
02145 Broadwater O & M	394,631	4.0%	407,862	2.9%	408,759	3.4%	
02216 Water Storage St Sp Rev Acct	-	-	625,000	4.5%	-	-	
02272 Renewable Resources Grnt/Loans	18,892	0.2%	18,904	0.1%	18,908	0.2%	
02351 Water Project Lands Lease Acct	8,546	0.1%	9,203	0.1%	9,310	0.1%	
02404 Water Project Loans	210,193	2.1%	308,206	2.2%	308,206	2.5%	
02409 General License	40,744	0.4%	(8,849)	-0.1%	(11,835)	-0.1%	
02430 Water Right Appropriation	575,550	5.8%	796,276	5.7%	794,676	6.6%	
02431 Water Adjudication	1,988,597	20.1%	2,437,561	17.4%	2,444,311	20.2%	
02458 Reclamation & Development	86,319	0.9%	214,550	1.5%	209,771	1.7%	
02470 State Project Hydro Earnings	161,538	1.6%	1,431,538	10.2%	186,538	1.5%	
02825 Water Well Contractors	38,524	0.4%	90,175	0.6%	90,369	0.7%	
03000 Total Federal Special Funds	86,126	0.9%	199,168	1.4%	199,289	1.6%	
03034 Yellowstone Groundwater Nps	23,000	0.2%	36,500	0.3%	36,500	0.3%	
03094 Fema Federal Grants	63,126	0.6%	162,668	1.2%	162,789	1.3%	
Grand Total	<u>\$ 9,881,008</u>	<u>100.0%</u>	<u>\$ 13,987,067</u>	<u>100.0%</u>	<u>\$ 12,124,072</u>	<u>100.0%</u>	

The Water Resource Division is predominantly funded with general fund, state special revenue, and a minor amount of federal revenue. Sources and purpose of state special revenue include:

- Water storage account funded by direct allocation of RIT interest and revenue from water purchase contracts for the purpose of construction, operation, maintenance, and rehabilitation of state water storage projects
- Water rights fees derived from fees collected to record rights to support water rights management
- Income derived from state owned hydroelectric projects for repair and rehabilitation of state owned water projects
- Fees from water well contractors that support the Board of Water Well Contractors

General fund is utilized for personal services, general operating costs, and specific activities such as preparing for water litigation and map modernization. Federal funds are from Federal Emergency Management Agency (FEMA) grants and the Bureau of Reclamation.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2008					Fiscal 2009					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				1,475,107						1,501,111
Vacancy Savings				(340,356)						(341,388)
Inflation/Deflation				64,567						67,881
Fixed Costs				84,875						104,373
Total Statewide Present Law Adjustments				\$1,284,193						\$1,331,977
DP 2401 - Water Resources Operating Adjustment IT	0.00	86,538	142,700	13,500	242,738	0.00	67,005	142,427	13,500	222,932
DP 2402 - State Water Projects Rehabilitation BIE/OTO	0.00	0	1,895,000	0	1,895,000	0.00	0	25,000	0	25,000
DP 2404 - Community Assistance Program (CAP) Federal	0.00	0	0	85,000	85,000	0.00	0	0	85,000	85,000
DP 2408 - Flathead Basin Commission Operating Adjustment IT	0.00	0	11,800	0	11,800	0.00	0	8,000	0	8,000
DP 2409 - BWWC Operating Adjustment	0.00	0	26,500	0	26,500	0.00	0	26,500	0	26,500
Total Other Present Law Adjustments				0.00	\$86,538	\$2,076,000	\$98,500	\$2,261,038	0.00	\$67,005
Grand Total All Present Law Adjustments				\$3,545,231						\$1,699,409

**LFD
COMMENT**

Personal Services Adjustments – The components driving the personal service adjustment include approximately \$480,000 for vacancies in the base year and \$305,000 for non-legislative pay adjustments. The remainder is to annualize the previous pay plan, longevity adjustments, and increases to employer paid health insurance premiums. The non legislative pay increases are attributed to market adjustments provided under pay plan 20.

DP 2401 - Water Resources Operating Adjustment IT - The executive requests an increase to restore base operating expenses. The request includes overtime at the Broadwater hydropower facility, increased contracted services for water right files and adjudication, the stream gauging program, regional and water right adjudication program rent, operating costs associated with the St. Mary's hydrologist position that was not filled until January 2006, and debt service for repayment of a federal loan for rehabilitation on the Middle Creek Dam.

DP 2402 - State Water Projects Rehabilitation BIE/OTO - The executive recommends this one-time-only biennial appropriation of \$1.9 million for the following:

- o \$1.1 million for design and construction documents for Ackley Lake Dam
- o \$75,000 for engineering evaluation for ht modification of Cataract Dam
- o \$75,000 for engineering consultation for design of outlet modifications and seepage control measures at Deadman's Basin Dam
- o \$620,000 for replacement of the east fork siphon on Flint Creek
- o \$50,000 to obtain survey work on an as needed basis

**LFD
ISSUE****Future Rehabilitation Costs**

The projects were built with federal funding to be operated by individual water users associations. Over the course of time, neither the state nor the water users associations established a fund for future maintenance needs. The burden of the repairs has fallen to the state. There are thirteen state owned water projects on the anticipated future rehabilitation cost estimate worksheet requiring \$31.5 million in repairs. This includes the projects that are included in this proposal, but does not include any repairs to state owned canals.

**LFD
ISSUE
CONT.**

The risks associated with delayed rehabilitation include water losses, or in case of project failure, loss of property and lives downstream. The department would most likely have access to federal funds in case of an emergency repair. The department does not have an overall strategic financing plan for project rehabilitation, which leaves the state at risk.

The legislature may wish to:

- Request a study resolution to develop a comprehensive plan to address the increasing rehabilitation and repair needs of state owned water projects and canals
- Request the department to report to the Environmental Quality Council during the interim with a plan to address the increasing needs of state owned water projects and canals

DP 2404 - Community Assistance Program (CAP) Federal - The executive requests federal special revenue to continue local flood plain management programs funded through FEMA. The primary purpose of the grant is to reduce the damage claims to the National Flood Insurance program through education and training.

DP 2408 - Flathead Basin Commission Operating Adjustment IT - The executive is requesting a biennial increase of \$19,800 for the Flathead Basin Commission's operational budget. This adjustment includes \$3,800 for computer equipment, \$10,000 for non-employee travel, and \$5,000 for increased rent and utility costs.

**LFD
ISSUE****Eliminating Costs**

This proposal requests an additional \$500 per year for electricity costs. Electricity costs are included in the inflation/deflation calculation and subsequent adjustment. This request doubles the authority for electricity costs. The legislature may wish to reduce this package by \$500 per year.

DP 2409 - BWWC Operating Adjustment - The executive recommends restoration of state special revenue authority for the Board of Water Well Contractors (BWWC) per diem, contracted legal services, and other litigation costs, and for restoration of operating costs due to the board's support position being vacant for six months of the base year.

New Proposals

New Proposals										
Program	FTE	Fiscal 2008				FTE	Fiscal 2009			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 2403 - Water Rights Records Optical Imaging-ITSD										
24	1.00	0	117,961	0	117,961	1.00	0	117,978	0	117,978
DP 2405 - Yellowstone Compact Study and Hydrologist RST										
24	1.00	119,602	0	0	119,602	1.00	113,794	0	0	113,794
DP 2406 - St. Mary Administrative Position										
24	0.50	0	20,027	0	20,027	0.50	0	18,534	0	18,534
DP 2407 - Upper Clark Fork Steering Committee										
24	0.00	0	20,000	0	20,000	0.00	0	20,000	0	20,000
DP 2411 - Map Modernization Program State Match IT										
24	0.00	115,000	0	0	115,000	0.00	115,000	0	0	115,000
DP 2412 - Surface Water/Ground Water Permitting Process (Requires Legislation)										
24	3.00	146,367	21,871	0	168,238	3.00	137,764	20,585	0	158,349
DP 2413 - DFWP Dam Engineer										
24	0.00	0	0	0	0	0.00	0	0	0	0
Total	5.50	\$380,969	\$179,859	\$0	\$560,828	5.50	\$366,558	\$177,097	\$0	\$543,655

DP 2403 - Water Rights Records Optical Imaging-ITSD - The executive requests 1.00 FTE and state special revenue authority to continue the conversion from microfilm to digital technology and utilization of document-scanning technology for water right records.

**LFD
ISSUE**

Progress Reporting

This activity began in the 2007 biennium with one-time-only funding. The department has completed conversion on 11,500 of the 350,000 existing water right files. The anticipated completion date for this project is 2011. The legislature may wish to condition this appropriation as one-time only to determine biennial progress on this activity.

DP 2405 - Yellowstone Compact Study and Hydrologist RST - The executive recommends 1.00 FTE and general fund authority to coordinate technical work associated with potential litigation of the Yellowstone River Compact. The position will also monitor surface water flow and precipitation and collect water samples for chemical analyses. \$100,000 will be used to match \$100,000 from Wyoming for this study.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: Provide any corresponding data that supports the activity. Protecting existing and future potential beneficial uses (agriculture, recreation, fisheries, drinking water) of water in the Yellowstone River basin, through securing Montana's water entitlements under the Yellowstone River Compact.

Goals:

- Quantify Montana's (and to the extent possible Wyoming's) pre-1950 and post-1950 water uses and entitlements (mainly irrigation and water storage) in Tongue and Powder River basins
- Monitor stream flow, precipitation and water quality
- Develop numerical models of surface and groundwater flows and water quality in the Tongue and Powder River
- To the extent possible, participate in joint water-use study with Wyoming State Engineers office
- Assist state Attorney General's office with development of technical basis for litigation with Wyoming to protect Montana's water

Performance Criteria:

- Technical analyses and project completion reports prepared on each task above
- Preparation of technical analyses in support of AG's office litigation
- Quarterly monitoring by Bureau Chief, Division Administrator and assistant Attorney General

Milestones: Specific milestones and target dates are contingent upon the degree of cooperation provided by Wyoming. If litigation before the U.S. Supreme Court is necessary, the duration of FTE would be about ten years.

The joint water use study with Wyoming is contingent upon developing an acceptable joint study scope and would require about two years to complete (starting in July 2007 and ending in July 2009). Litigation might preclude completion of the study and unallocated funds would be used in support of litigation.

FTE: One hydrologist to be hired July 2007, no recruitment concerns.

Funding: General Fund

Obstacles: Depending upon the timing of litigation, information on Wyoming water uses may be difficult to obtain.

Risk: Lacking adequate resources significantly jeopardizes Montana's ability to effectively litigate with Wyoming. The division will attempt to re-allocate already limited staff resources to conduct technical studies in support of litigation with Wyoming if this package is not approved.

**LFD
ISSUE**

The Yellowstone compact was approved in 1950 to protect pre-1950 water rights in both states and allocate the remaining post 1950's flow in accordance with a negotiated apportionment formula. The state is contending that the compact has not been properly administered, leaving Montana short of water entitlements in many years. This decision package would provide the technical data necessary to proceed with litigation against Wyoming. The executive's budget includes a request for \$3.0 million of one-time authority of general fund for the Attorney General for this purpose.

There are a number of issues with this proposal: 1) cooperation from the state of Wyoming; 2) involvement of the Department of Environmental Quality (DEQ); 3) use of resources; 4) legislative oversight; and 5) the lack of an interim plan.

The proposal includes a potential joint water study with the State of Wyoming to determine the status of pre-1950 water rights. This portion of the study is dependent upon the cooperation of Wyoming. The proposal does not indicate how the research activity would be completed without Wyoming's cooperation.

This proposal includes chemical analysis of the water, which is not a function of the department. Water quality issues are within the purview of DEQ. The proposal does not present a link with DEQ for this purpose and there is not a corresponding request for support in the executive's budget for DEQ.

Potential litigation against a neighboring state over water quality and quantity may be of significant import to require legislative oversight by an interim committee. The progress of the research and subsequent filling of litigation could be followed during the interim by the Environmental Quality Council (EQC).

The milestones listed within the proposal do not provide any indication of the type of work that will be accomplished during the biennium. For example, the hiring of the FTE, scoping of the joint study, coordination plan with DEQ, etc.

The legislature may wish to address these issues with the following:

- Require the department to provide the following additional information prior to deliberations:
 - Status of the litigation plan
 - A research plan without cooperation from Wyoming
 - Description of the link with the DEQ for water quality issues
 - Provision of estimated milestones for the 2009 biennium
- Condition the appropriation to require quarterly or semi-annual progress reports to the EQC

DP 2406 - St. Mary Administrative Position - The executive requests 0.50 FTE and state special revenue authority to provide administrative support for the St. Mary's rehabilitation project working group and staff.

DP 2407 - Upper Clark Fork Steering Committee - The executive requests \$40,000 of state special revenue authority for the biennium to fund the Upper Clark Fork River Basin Steering Committee. The requested funding would allow the steering committee to address its statutory mandates and to continue discussions with water users and policy makers how completion of the adjudication will affect water management in Montana.

DP 2411 - Map Modernization Program State Match IT - The executive requests \$230,000 of general fund for the biennium to provide contract engineering and mapping services to augment floodplain mapping during the ongoing national effort by FEMA to update all floodplain maps in the state.

**LFD
COMMENT**

The current federal funding provides for converting FEMA floodplain maps to GIS technology. This requested would allow for new flood zone mapping during the conversion process.

DP 2412 - Surface Water/Ground Water Permitting Process (Requires Legislation) - The executive requests 3.00 FTE, general fund and state special revenue for the biennium to implement the determination that surface water and ground water are connected. These includes evaluation of the potential interaction of increased ground water developments on surface water supplies in closed basins, and evaluate the management and mitigation activities required to prevent adverse effect on other users, especially existing users of surface water resources. This request is contingent on the passage and approval of LC 0218.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: Avoid delays in processing that have an economic impact on local economies and create the potential for increased costs due to court actions.

Goal: To efficiently and thoroughly analyze new uses of water to ensure existing users are not harmed.

Performance Criteria: Water rights program staff currently monitors workloads monthly to ensure resources are distributed appropriately to meet statutory duties. Until the legislation proposed is adopted there is no opportunity for new groundwater development in some closed basins for certain subdivision and public water supplies.

Milestones: Legislation will result in approximately 150 additional groundwater permit and change applications per year. They will require review by a water resource specialist and geohydrologist. Current staff reviews approximately 500 applications per year. Maintaining current rate of review will ensure the review is completed within the statutory deadline of 180 days.

FTE: The additional 3.0 FTE requested would be hired in July 2007. No recruitment concerns.

Funding: This package is funded with 87 percent general fund and 13 percent water right appropriation fees. The water rights appropriation fee is collected to process new appropriations.

Obstacles: With the increase in development of groundwater by growing population in new sectors for public water supplies and recent court decisions on the interconnection of ground and surface water, additional staff must be acquired to address these demands. There are statutory deadlines for the agency to complete its review. Additional staff will ensure that these continue to be met. Water Rights Program staff currently monitor workloads monthly to ensure resources are distributed appropriately to meet our statutory duties.

Risk: Delays in processing new permit applications will result. Prioritization of workload and tasks to these applications will cause delays in meeting agency mandates, water right application processes, complaint investigations and objection resolutions.

LFD ISSUE

The purpose of the proposed legislation is to address the interconnectivity of surface and ground water as it relates to water availability. Growth in subdivision development that is not connected to a municipal service system relies on groundwater sources to provide water for the development. The proposal would provide FTE and operating costs to review the impact of new subdivisions utilizing common water systems on the existing groundwater uses as well as surface users.

The proposal does not include measurable performance criteria or clear milestones. The performance criteria could be written to assure timelines of the permitting process. Milestones could include functions of hiring, training and public education potentially required from the statutory change. Without this information the legislature does not have a basis to determine success at a later date.

**LFD
ISSUE
CONT.**

Prior to deliberations the legislature may wish to:

- Request measurable performance criteria
- Request proposed milestones to determine what may be completed within the biennium

The applicant is required to request a permit to complete the process. The decision package is funded with 87 percent general fund and 13 percent water right appropriations. The issue for the legislature is to determine to what extent the state as a whole benefits from this activity and consequently is appropriately funded with general fund or whether the primary beneficiary is the water right owner who pays the fee. The legislature may wish to:

- Fund the entire package with water appropriation fees
- Change the percentage between general fund and water appropriation fees

DP 2413 - DFWP Dam Engineer - The executive recommends state special revenue of \$81,050 in FY 2008 and \$84,292 in FY 2009 for an engineering position that would provide dedicated engineering services for the maintenance and rehabilitation of the 10 dams owned by the Department of Fish, Wildlife, and Parks (FWP). The position will be paid from a contract with DFWP. The request appears as a zero cost, because it is a funding switch between two state special revenue funds.

**LFD
ISSUE**

This service was previously funded by a direct appropriation of general license funds to the department. The decision was made for FWP to maintain the funding for this position in their budget, enter into a contract agreement with DNRC, and provide an administrative appropriation to DNRC to have appropriation authority to pay for the position. This decision package does not reflect this plan. If the department is going to accept an administrative appropriation from FWP, the needed authority will be provided at that time. If approved, this package would provide an additional \$165,432 in unrestricted state special revenue authority.

In order to match the proposed plan, this decision package should be disapproved and a new decision package created to remove \$165,342 in authority from the division's current base budget.

Language

"During the 2009 biennium, up to \$1 million of funds currently in or to be deposited in the Broadwater replacement and renewal account is appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility."

"During the 2009 biennium, up to \$70,000 of interest earned on the Broadwater water users account is appropriated to the department for the purpose of repair, improvement, or rehabilitation of the Broadwater-Missouri diversion project."

"During the 2009 biennium, up to \$500,000 of funds currently in or to be deposited in the state project hydropower earnings account is appropriated for the purpose of repairing, improving, or rehabilitating department state water projects."

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	9.00	(1.00)	0.00	8.00	(1.00)	0.00	8.00	8.00
Personal Services	586,759	(6,966)	0	579,793	(6,015)	0	580,744	1,160,537
Operating Expenses	118,640	6,365	97,500	222,505	8,467	97,500	224,607	447,112
Total Costs	\$705,399	(\$601)	\$97,500	\$802,298	\$2,452	\$97,500	\$805,351	\$1,607,649
General Fund	705,399	(601)	97,500	802,298	2,452	97,500	805,351	1,607,649
Total Funds	\$705,399	(\$601)	\$97,500	\$802,298	\$2,452	\$97,500	\$805,351	\$1,607,649

Program Description

The Montana Reserved Water Rights Compact Commission was created by the legislature in 1979 as part of the state-wide water rights adjudication effort. It consists of four members appointed by the Governor, two by the President of the Senate, two by the Speaker of the House of Representatives, and one by the Attorney General. Members serve for four years. The commission negotiates water rights with the Indian tribes and federal agencies that claim federal reserved water rights within the state, to establish a formal agreement (compact) on the amount of water to be allocated to each interest. Legal, technical, and administrative staff supports the commission. The commission is scheduled to sunset on July 1, 2009.

Program Highlights

Reserved Water Rights Compact Commission Major Program Highlights	
◆	The operating adjustment removes a position that is no longer needed
◆	The activities of the commission sunset July 1, 2009

Funding

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Program Funding Table Reserved Water Rights Co						
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000 Total General Fund	\$ 705,399	100.0%	\$ 802,298	100.0%	\$ 805,351	100.0%
01100 General Fund	705,399	100.0%	802,298	100.0%	805,351	100.0%
Grand Total	<u>\$ 705,399</u>	<u>100.0%</u>	<u>\$ 802,298</u>	<u>100.0%</u>	<u>\$ 805,351</u>	<u>100.0%</u>

The commission is funded exclusively with general fund.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
Fiscal 2008					Fiscal 2009				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				62,942					63,981
Vacancy Savings				(25,987)					(26,031)
Inflation/Deflation				1,288					1,534
Fixed Costs				144					703
Total Statewide Present Law Adjustments				\$38,387					\$40,187
DP 2502 - RWRCC Operating Adjustment									
(1.00)	(38,988)	0	0	(38,988)	(1.00)	(37,735)	0	0	(37,735)
Total Other Present Law Adjustments									
(1.00)	(\$38,988)	\$0	\$0	(\$38,988)	(1.00)	(\$37,735)	\$0	\$0	(\$37,735)
Grand Total All Present Law Adjustments				(\$601)					\$2,452

**LFD
COMMENT**

Personal Services Adjustments – The components driving the personal service adjustment includes approximately \$20,500 for non-legislative pay adjustments in the base year. The remainder is to annualize the previous pay plan, longevity adjustments, and increases to employer paid health insurance premiums. The non-legislative pay increases are attributed to market adjustments provided under pay plan 20.

DP 2502 - RWRCC Operating Adjustment – The executive requests a reduction of \$38,988 in FY 2008 and \$37,735 in FY 2009 which reflects the operational adjustments for commission per diem, rent, and removal of 1.00 FTE in anticipation of the commission sunset date of July 1, 2009.

New Proposals

New Proposals										
-----Fiscal 2008-----						-----Fiscal 2009-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2501 - RWRCC Contracted Services OTO										
25	0.00	97,500	0	0	97,500	0.00	97,500	0	0	97,500
Total	0.00	\$97,500	\$0	\$0	\$97,500	0.00	\$97,500	\$0	\$0	\$97,500

DP 2501 - RWRCC Contracted Services OTO - The executive requests one-time only general fund of \$97,500 each year of the biennium to provide contract services for a fisheries biologist and engineer primarily to support negotiations with the Confederated Salish and Kootenai Tribe (CSKT).

Language

"It is the intent of the Legislature that the Department of Natural Resources and Conservation create a new Compact Implementation Bureau under the Water Rights Division consisting of 5.00 FTE and current budget levels. The bureau would be charged with follow up work that must occur following the sunset of the Reserved Water Rights Compact Commission on July 1, 2009. Follow up work will include, but not be limited to, congressional approvals, water court approvals, technical reports, archiving documents and creating a digital library, engineering and hydrological oversight of ongoing water projects envisioned by the various compacts, joint water management with the Tribes, legal interpretation, compact administration, and dispute resolution functions."

**LFD
ISSUE**
Implementation after Commission Sunset

This language appropriation essentially converts this division to a bureau with the Water Resources Division when authority for the commission sunsets. This is not an appropriate use of HB 2 language as it is not tied to a specific decision package or line item. In addition, the commission does not sunset until July 1, 2009. The legislature will have the ability to establish an implementation plan and appropriate funding for such a plan during the 2009 legislative session.

Program Proposed Budget

The following table summarizes the total executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	289.87	2.50	1.00	293.37	2.50	1.00	293.37	293.37
Personal Services	13,755,072	1,435,227	51,462	15,241,761	1,492,315	51,496	15,298,883	30,540,644
Operating Expenses	5,787,272	929,142	1,073,675	7,790,089	915,114	1,056,500	7,758,886	15,548,975
Equipment	989,435	62,350	1,390,000	2,441,785	12,500	390,000	1,391,935	3,833,720
Capital Outlay	118,347	3,771	0	122,118	3,771	0	122,118	244,236
Grants	184,491	0	100,000	284,491	0	100,000	284,491	568,982
Transfers	809,421	150,475	5,000,000	5,959,896	167,930	5,000,000	5,977,351	11,937,247
Debt Service	6,760	0	0	6,760	0	0	6,760	13,520
Total Costs	\$21,650,798	\$2,580,965	\$7,615,137	\$31,846,900	\$2,591,630	\$6,597,996	\$30,840,424	\$62,687,324
General Fund	7,908,910	647,911	6,507,400	15,064,221	672,640	5,507,400	14,088,950	29,153,171
State/Other Special	12,530,277	1,759,552	1,207,737	15,497,566	1,744,098	1,190,596	15,464,971	30,962,537
Federal Special	1,211,611	173,502	(100,000)	1,285,113	174,892	(100,000)	1,286,503	2,571,616
Expendable Trust	0	0	0	0	0	0	0	0
Total Funds	\$21,650,798	\$2,580,965	\$7,615,137	\$31,846,900	\$2,591,630	\$6,597,996	\$30,840,424	\$62,687,324

Program Description*Forestry Division*

The Forestry Division is responsible for planning and implementing forestry programs statewide. Forestry responsibilities include protecting natural resources from wildfire, regulating forest practices, and providing a variety of services to private forest landowners. Specific programs include:

- Fire and Aviation Management - Protecting 50 million acres of state and private forest and watershed lands from wildfire through a combination of direct protection and county support.
- Forest Practice Regulation - Enforcing Montana's streamside management zone regulations and monitoring the voluntary best management practices program on all forests in Montana.
- Administering Montana Fire Hazard Reduction Law - Ensuring that the fire hazard created by logging and other forest management operations on private forest lands is adequately reduced, or that additional fire protection is provided until the hazard is reduced.
- Providing Forestry Services - Providing technical forestry assistance to private landowners, businesses, and communities.
- Tree and Shrub Nursery - Growing and selling seedlings for conservation and reforestation plantings on state and private lands in Montana.

Trust Land Management

The Trust Land Management Division is responsible for managing Montana's trust land resources to provide revenues to the trust beneficiaries while considering environmental factors and protecting future income generating capacity of the land. These lands currently total 5.2 million surface acres, 6.2 million mineral acres, and approximately 6,000 miles (40,000+ acres) of the beds of navigable waterways. The division provides this through four primary programs: 1) forest management; 2) agriculture and grazing management; 3) special use management; and 4) minerals management.

Program Highlights

Forestry Division Major Program Highlights	
♦	The executive is requesting 13 new proposals of which 5 are inappropriately classified as present law adjustments
♦	The executive is requesting present law adjustments to the Forestry Program that are dependent upon the passage and approval of legislation to increase the direct protection fee
♦	Funding for the state's share of the remediation at the Kalispell Pole and Timber (KPT) site is requested from an RIT related
♦	The Trust Land Management program is seeking 2.00 FTE, 1.00 for the management of navigable rivers and 1.00 for mineral management
Major LFD Issues	
♦	If legislation is not passed to increase forest protection fees, the department will not receive the general fund portion either
♦	Increases in trust land management administration should have a return on investments to the trusts
♦	The KPT site could be funded with general fund as the revenues from the site were deposited to the general fund.

Funding

The following table shows program funding, by source, for the base year and for the 2009 biennium as recommended by the executive.

Program Funding Table Forestry/Trust Lands						
Program Funding	Base FY 2006	% of Base FY 2006	Budget FY 2008	% of Budget FY 2008	Budget FY 2009	% of Budget FY 2009
01000 Total General Fund	\$ 7,908,910	36.5%	\$ 15,064,221	47.3%	\$ 14,088,950	45.7%
01100 General Fund	7,908,910	36.5%	15,064,221	47.3%	14,088,950	45.7%
02000 Total State Special Funds	12,530,277	57.9%	15,497,566	48.7%	15,464,971	50.1%
02039 Forestry-Fire Protection Taxes	2,529,064	11.7%	3,268,271	10.3%	3,282,108	10.6%
02073 Forestry - Slash Disposal	141,401	0.7%	132,594	0.4%	132,992	0.4%
02104 Miscellaneous State Spec Rev	-	-	300,000	0.9%	300,000	1.0%
02241 Dsl Recreational Use Account	89,722	0.4%	45,480	0.1%	45,501	0.1%
02272 Renewable Resources Grnt/Loans	-	-	100,000	0.3%	100,000	0.3%
02280 Forest Resources-Timber Sales	3,354,659	15.5%	3,825,279	12.0%	3,824,213	12.4%
02324 State Land Bank	153,001	0.7%	275,001	0.9%	275,001	0.9%
02449 Forest Resources-Forest Improv	1,579,196	7.3%	1,866,491	5.9%	1,869,182	6.1%
02450 State Lands Res Dev	587,226	2.7%	699,999	2.2%	700,000	2.3%
02458 Reclamation & Development	-	-	500,000	1.6%	500,000	1.6%
02681 Historic Right-Of-Way Acct	5,000	0.0%	15,000	0.0%	15,000	0.0%
02836 Commercial Leases - Tlmd	30,000	0.1%	40,000	0.1%	40,000	0.1%
02938 Tlmd - Administration	4,061,008	18.8%	4,429,451	13.9%	4,380,974	14.2%
03000 Total Federal Special Funds	1,211,611	5.6%	1,285,113	4.0%	1,286,503	4.2%
03415 Consol Grnt-Srvce Forestry Fy06	528,914	2.4%	400,255	1.3%	401,645	1.3%
03416 Consolidated Grant - Fire Fy06	647,283	3.0%	634,858	2.0%	634,858	2.1%
03418 Nonconsol Grant-Fire Fy06	35,414	0.2%	250,000	0.8%	250,000	0.8%
Grand Total	<u>\$ 21,650,798</u>	<u>100.0%</u>	<u>\$ 31,846,900</u>	<u>100.0%</u>	<u>\$ 30,840,424</u>	<u>100.0%</u>

The Forestry Division is supported with a mix of general fund, state special revenue, and federal funding. General fund provides general division support as well as the fixed costs of the Fire and Aviation Management program. A transfer from the general fund is made to the proprietary fund, from which it is spent.

State special revenue support comes from forest improvement fees and forest protection fees. Forest improvement fees consist of \$25 for each slash hazard reduction agreement, and \$.060 per thousand board feet sold, plus any forfeited fire hazard reduction bonds. Fees are established when timber sales are approved based upon the state's projected costs of slash disposal, road maintenance, and reforestation.

The department is also required to collect up to one-third of the state's fire protection appropriation from private landowners through a forest protection fee. The other two-thirds are funded with general fund. The department is required to levy the tax so that collections equal the amount appropriated by the legislature.

The Trust Land Management division is funded with trust fund revenue, timber sales, and forest resource fees. The remaining funding is from recreational use and resource development of state lands. Because funding for state lands is taken directly from revenues, any expenditure for administration of state lands is a direct reduction in trust income. General fund is utilized for personal services for the management of non-trust state lands.

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the Governor. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2008					Fiscal 2009					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				1,937,027					1,996,228	
Vacancy Savings				(627,676)					(630,049)	
Inflation/Deflation				128,603					141,859	
Fixed Costs				23,588					22,378	
Total Statewide Present Law Adjustments				\$1,461,542					\$1,530,416	
DP 3505 - Inmate Fire Suppression Crews (Requires Legislation)	0.50	20,508	10,564	0	31,072	0.50	20,532	10,577	0	31,109
DP 3506 - Forestry Operating Adjustment (Requires Legislation)	0.00	152,103	70,372	214,499	436,974	0.00	163,624	76,306	214,465	454,395
DP 3507 - Interagency Fire Support (Requires Legislation)	0.00	65,655	33,823	0	99,478	0.00	68,295	35,183	0	103,478
DP 3508 - Forestry Equipment Replacement IT OTO	0.00	30,600	0	0	30,600	0.00	12,500	0	0	12,500
DP 3531 - Land Bank Reauthorization BIE (Requires Legislation)	0.00	0	122,000	0	122,000	0.00	0	122,000	0	122,000
DP 3534 - Access Acquisition BIEN	0.00	0	100,000	0	100,000	0.00	0	100,000	0	100,000
DP 3536 - Trust Land Management Operating Adjustment	1.00	0	69,207	0	69,207	1.00	0	75,701	0	75,701
DP 3537 - Weed Management Projects	0.00	0	25,000	0	25,000	0.00	0	25,000	0	25,000
DP 3538 - Real Estate Management Plan	0.00	0	50,000	0	50,000	0.00	0	50,000	0	50,000
DP 3544 - Phone Systems-Field Offices-OTO/BIEN	0.00	0	31,750	0	31,750	0.00	0	0	0	0
DP 3545 - Historic Rights-of-Way Addition	0.00	0	15,000	0	15,000	0.00	0	15,000	0	15,000
DP 3546 - Handheld Field Computer Equipment-OTO	0.00	0	50,000	0	50,000	0.00	0	16,000	0	16,000
DP 3547 - Navigable River Management	1.00	0	58,342	0	58,342	1.00	0	56,031	0	56,031
Total Other Present Law Adjustments	2.50	\$268,866	\$636,058	\$214,499	\$1,119,423	2.50	\$264,951	\$581,798	\$214,465	\$1,061,214
Grand Total All Present Law Adjustments					\$2,580,965					\$2,591,630

**LFD
COMMENT**

Personal Services Adjustments – The components driving the personal service adjustment include approximately \$549,602 for non-legislative pay adjustments in the base year. The remainder is to annualize the previous pay plan, longevity adjustments, and increases to employer paid health insurance premiums. The non legislative pay increases are attributed to market adjustments provided under pay plan 20.

DP 3505 - Inmate Fire Suppression Crews (Requires Legislation) - The executive requests 0.50 FTE and approximately \$20,500 general fund and \$10,500 state special revenue each year of the 2009 biennium for a supervisor for a 10-person prison hand crew from the Department of Correction's work release program. This request is contingent on passage of and approval of LC 0221.

**LFD
ISSUE****Contingent Legislation**

Fire protection is funded at one-third state special revenue from forest assessments and two-thirds general fund. The forest assessment fee is paid by landowners who have forested property within the direct protection area of DNRC. In order to maintain this funding structure, the amount of the forest assessment would need to be raised. The current fee is \$ 30 annually per parcel plus an additional \$0.20 per acre in excess of 20 acres. LC 0221 proposes to raise the assessment level to continue providing this funding. The entire appropriation is contingent on the passage of that bill, including the general fund portion.

The issue for the legislature is to determine if this decision package (and subsequent related packages) should be funded if the legislation does not pass. This could be done by adding language to HB 2 to eliminate the state special revenue authority and increase the general fund by the same amount. This package would then be funded entirely with general fund should the legislation not pass. The issue with this option is that utilizing the general fund would reduce the participation of forested landowners in the protection program. The fees would still be collected, but it would not raise one-third of the total cost of the protection program.

**LFD
COMMENT**

This package is a new proposal and should be reviewed as such.

DP 3506 - Forestry Operating Adjustment (Requires Legislation) - The executive requests an increase in base authority for increased rent and janitorial costs of the division's regional offices to be covered with state special revenue authority. Federal authority is requested to provide for increased training and maintenance associate with federal assist fires and development costs for wildland engines. The general fund would be transferred to the air operations proprietary account for salaries, rent, and aircraft insurance to cover air operations fixed costs. This request is contingent on passage and approval of LC 0221.

**LFD
ISSUE****Contingent Legislation**

This package is also dependent upon the passage of LC 0221. See the discussion in DP 3505.

**LFD
COMMENT**

This package is a new proposal and should be reviewed as such

DP 3507 - Interagency Fire Support (Requires Legislation) - The executive requests general fund and state special revenue to support interagency fire costs within the Northern Rockies region. This includes an increase for the department's contract for fire protection services on state and private lands within the Flathead Indian Reservation and an increase in shared support costs associated with the Northern Rockies Coordinating Group (NRCG) for which DNRC is a partner. This request is contingent on passage and approval of LC 0221.

**LFD
ISSUE**

Contingent Legislation

This package is also dependent upon the passage of LC 0221. See the discussion in DP 3505.

**LFD
COMMENT**

This package is a new proposal and should be reviewed as such.

DP 3508 - Forestry Equipment Replacement IT OTO - This budget request is for one-time-only general fund of \$30,600 in FY 2008 and \$12,500 in FY 2009 for replacement of a network server in the Missoula Forestry office and a phone system at the Anaconda and Kalispell Units.

**LFD
COMMENT**

This package is a new proposal and should be reviewed as such.

DP 3531 - Land Bank Reauthorization BIE (Requires Legislation) - The executive requests biennial state special revenue authority to defray the costs associated with preparing the sale of state land pursuant to land banking. This includes appraisals, cultural surveys, land surveys, advertising, realtor fees, and closing costs. This request is contingent passage and approval of LC 0417.

**LFD
COMMENT**

The Land Banking program was authorized by the 2003 Legislature and involves the sale and acquisition of parcels to obtain more valuable acreage for the trusts. The Land Banking Program has a statutory time limit to complete all transactions by October 1, 2008. The proposed legislation extends that date to October 1, 2011. See the agency discussion for additional information on the Land Banking Program.

DP 3534 - Access Acquisition BIEN - The executive requests biennial state special revenue authority for purchasing access to forested state trust lands. Access to isolated trust lands has become a priority for the department and also increases the value of the land. Access is needed for timber harvest, forest improvement activities, land exchanges, recreational use by the public, and fire hazard reduction and suppression.

**LFD
COMMENT**

The acquired access does not guaranteed public access. The department does attempt to negotiate motorized or walking public access, but is not always successful. The approval of this package does not guarantee public access to isolated parcels.

DP 3536 - Trust Land Management Operating Adjustment - The executive requests an increase in the operations budget due to increased rent costs in the Helena, Bozeman, Conrad, Dillon, Lewistown, Glasgow, and Havre offices. The additional FTE is to be located in at the Northwest, Southwest and Central Land Office as a seasonal aggregate FTE for increase forest improvement workload, including burning and tree planting.

DP 3537 - Weed Management Projects - The executive requests state special revenue for contracted services for weed control, and to purchase herbicides, fund cooperative grant projects, and support bio-control efforts in order to complete additional weed control projects.

DP 3538 - Real Estate Management Plan - The executive requests additional spending authority of \$50,000 each year to implement the Real Estate Management Plan. The plan was approved by the Board of Land Commissioners in July 2005 and includes infrastructure development for commercial and industrial uses on state trust lands.

LFD COMMENT	The Real Estate Management Plan provides the department with consistent policy, direction, and guidance in the management of real estate activities on state trust lands and for development of commercial, industrial, residential, and conservation uses. The purpose is to focus on improving land entitlements to increase income to the trusts consistent with community input and trust responsibilities. Higher rates of return would be achieved by funding improvements to enhance land entitlements.
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DP 3544 - Phone Systems-Field Offices-OTO/BIEN - The executive requests a one-time-only biennial appropriation for a new phone system at the Northeastern Land Office at Lewistown and one at the Southwestern Land Office at the Clearwater Unit.

DP 3545 - Historic Rights-of-Way Addition - The executive recommends an increase for contracted services associated with processing the Historic Rights-of-Way applications.

LFD ISSUE	<p>Fee Not Commensurate With Costs</p> <p>The department collects a \$50 fee to process all easement applications as per 77-1-130, MCA. The fee is not commensurate with costs and the department is dependent upon funding from the trust land administration account (TAC) or the resource development account to cover the remaining costs of process. The legislature may wish to request legislation to increase the right-of-way application fee in 77-1-130, MCA to a level commensurate with costs.</p>
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DP 3546 - Handheld Field Computer Equipment-OTO - The executive requests one-time only state special revenue authority for the purchase of handheld field computer units for mobile GIS and field data collection activities to reduce time spent and data errors.

DP 3547 - Navigable River Management - The executive requests 1.00 FTE and state special revenue authority to manage the Navigable Rivers Program. This funding would provide for an inventory of all navigable waterways and initiate leases for utilities formerly authorized by the federal permit.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: Permitting authority for power-generating hydroelectric facilities that resides within the bed and banks of navigable waters are also under DNRC's jurisdiction. Owners of these facilities had, in the past, claimed exemption from the state permitting and compensatory requirements; however, on April 14, 2006, Judge Honzel granted summary judgment to the state holding that dam owners are obligated to enter into leases with the State of Montana where the dams are located upon navigable waters. This ruling has the potential to increase the workload associated with inventorying and developing lease agreements not only for these facilities, but also many other types of structures and facilities located in, under, or over the states navigable waters that exist in trespass. DNRC needs adequate staff and funding in order to fulfill the statutory obligations and court directive as provided herein.

Goal: The requested FTE will help DNRC carry out their statutory responsibilities related to the management, administration, and permitting requirements for structures on navigable waterways, resulting in a substantial increase in the revenues generated for K-12 schools.

Performance Criteria: The position description and work plan for the position will establish goals and objectives necessary to fulfill previously referenced statutory responsibilities and compliance with the court's ruling. It will be monitored under annual performance review appraisals and development of annual objectives and accomplishments by DNRC.

Milestones:

- Update, implement, and coordinate the Navigable River Policy to assure fair and consistent application of lease/license requirements and associated fees
- Provide guidance and support to DNRC land offices in all aspects of program administration
- Edit and refine, as necessary, the present inventory data for all navigable waterways
 - Inventory dams and other major structures and facilities located within navigable waterways
 - Prioritize and coordinate the inspection of these structures/facilities within established timelines and framework
 - Priority to be established based on type of facility/structure, hazard assessment, mitigation requirements, and compensatory values
- Promote and coordinate interaction of jurisdictional authority associated with multi-agency review (i.e. federal and local review; conservation districts, Indian reservations, etc.)
- Assess and mitigate impacts of social and recreational issues, threatened or endangered species, and potential liability to the state through compliance with MEPA
- Assure that the installation, removal, and remediation of known or potential hazardous structures or other obstacles located on, across, or under navigable waterways are completed within mandated timeframes, if so imposed, and in compliance with state and federal laws. Examples of recent or current projects are:
 - Removal of abandoned logs in the Swan River, Swan Lake, Flathead Lake, and Seeley Lake
 - Renovation of a dilapidated irrigation structure in the Clark Fork River near the Higgins Street Bridge in Missoula
 - Repair of a private bridge over the Bitterroot River and a footbridge over Lolo Creek
 - Boring under the bed of the Clark Fork River for installation of the Yellowstone Pipeline used for transport of petroleum
 - Boring under the bed of Nine Mile Creek for installation of an electric transmission line by Missoula Electric Cooperative

FTE: The hire date would be within 3 months of approval of the FTE.

Funding: The position and related operations costs would be funded by the trust land administration account

Obstacles: None

Risk: DNRC may not be able to carry out statutory mandates, as well as the court's ruling in a timely manner. The ability to inventory and assess appropriate lease fees that could generate \$4.0 to \$5.0 million annually would be at risk and delayed.

LFD ISSUE	The department is currently handling this workload through the land offices. This proposal would enable the department to have a program manager that would provide overall guidance to the program. The goal clearly states that an increase in revenues will occur from this activity, but the provided performance criteria do not address the potential magnitude of this revenue. The legislature may wish to dialogue with the department to establish performance criteria based on potential returns.
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**LFD
COMMENT**

This proposal addresses only lease revenue due at this time. A court case is pending regarding the resolution of back payments for dam located on navigable rivers.

New Proposals

New Proposals											
-----Fiscal 2008-----						-----Fiscal 2009-----					
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 3501 - Radio Communications IT RST	35	0.00	257,400	132,600	0	390,000	0.00	257,400	132,600	0	390,000
DP 3502 - Urban Forestry Funding Change	35	0.00	0	100,000	(100,000)	0	0.00	0	100,000	(100,000)	0
DP 3503 - Fire Fighting Equipment - Rst/Bien/OTO	35	0.00	1,000,000	0	0	1,000,000	0.00	0	0	0	0
DP 3504 - On-Going General Fund Support for Fire Fighting	35	0.00	5,000,000	0	0	5,000,000	0.00	5,000,000	0	0	5,000,000
DP 3530 - NELO Land Use Specialist	35	1.00	0	55,137	0	55,137	1.00	0	52,996	0	52,996
DP 3533 - Habitat Conservation Plan (HCP) Implem & Monit	35	0.00	0	120,000	0	120,000	0.00	0	105,000	0	105,000
DP 3535 - Land Exchange Reimbursement	35	0.00	0	300,000	0	300,000	0.00	0	300,000	0	300,000
DP 3542 - Reliance Refinery Remediation-BIE/OTO	35	0.00	0	500,000	0	500,000	0.00	0	500,000	0	500,000
DP 3549 - Woody Biomass Utilization Program - OTO	35	0.00	250,000	0	0	250,000	0.00	250,000	0	0	250,000
Total	1.00	\$6,507,400	\$1,207,737	(\$100,000)	\$7,615,137	1.00	\$5,507,400	\$1,190,596	(\$100,000)	\$6,597,996	

DP 3501 - Radio Communications IT (RST) - This request would complete a conversion to compliant communications equipment over the next 5 biennium, at a projected cost of \$390,000 per year. This would entail replacement of 1,000 handheld, mobile radios and base stations, plus 29 repeater sites. Replacement and upgrades would be coordinated with other entities in the consortiums.

DP 3502 - Urban Forestry Funding Change - The executive requests a funding switch to replace \$100,000 of federal special revenue with state special revenue to fund the 2.00 FTE and operating costs for the Urban Forestry Program. The remaining federal authority would be utilized to support the grant opportunities for cities and towns.

**LFD
COMMENT**

This request is for renewable resource appropriation authority. This fund is an RIT related fund which was studied during the interim at length. (See agency discussion for more information.) To prioritize this request with the other RIT funded activities, the department was asked to provide the same programmatic information provided to the RIT subcommittee. The following was provided by the department and edited only for clarity or brevity by LFD staff.

- Is the function consistent with the purpose of the RIT or RIGWA taxes as outlined in statute?

The mission of the Urban Forestry Program is to assure urban forests within Montana communities have self sustaining programs. This effort encompasses information/education, technical assistance, and financial assistance and partnership components. Urban forests contribute to community economics and community member quality of life. Urban forests provide economic benefits, for example, in attractiveness of community affecting tourism and a desirability of location. Urban forests also help in temperature control, shade, air quality, aesthetic value, enhancing open space and many emotional/psychological qualities. RIT funding would be directed toward grant projects that would enhance the renewable natural resources benefits and long term stability of Montana's urban forests.

- Are measurable performance goals and objectives in place? Describe

**LFD
COMMENT**

The Urban Forestry Program has a set of program specific Strategic Goals and Objectives that are incorporated into the Forestry Assistance Strategic Plan Goals and Objectives. Each year specific annual work objectives are set for each section of the urban forestry goals and objectives

- Is there a program-monitoring plan in place? Describe

Because the program objectives are documented in formal annual objectives, accomplishments are documented at the close of each fiscal year. The bureau is also monitoring individual accomplishments monthly through our bureau accomplishment database.

- What other funding is available?

The Urban Forestry Program has been virtually 100 percent federally funded over the life of the program. That funding comes as a grant to DNRC through the USDA Forest Service State and Private Forestry program. In recent years, that funding has ranged from \$200,000 to \$216,000. The funding supports 2.5 FTE, a very minimal operations budget and a small grants-to-communities program. Occasionally, we have received additional funding during the year if the Forest Service has additional funds. These funds largely support additional grants to communities. This funding is becoming increasingly unstable. FY 2007's grant was reduced to \$164,500, which covered personal service and about \$12,000 for operations. FY 2008 may be increased slightly, but until the federal budget is passed that is uncertain. Beyond FY 2008 is highly speculative.

**LFD
ISSUE**

The use of renewable resource funding for urban forestry activities does fall within the guidelines established for RIT expenditures. However, this is a new and potentially long term use for RIT funding. The legislature may wish to:

- Condition the appropriation as one-time only to evaluate the status of the federal funds over the biennium
- Use language in HB 2 to reduce the appropriation level if federal funds increase

DP 3503 - Fire Fighting Equipment - Rst/Bien/OTO - The executive recommends a \$1.0 million one-time-only general fund appropriation for the Forestry Division to purchase fire fighting equipment. The appropriation would be used to purchase fire fighting equipment for state use and/or local fire cooperatives. The request is also restricted and biennial.

**LFD
ISSUE**

Purchasing Plan

The plan for this proposal is two fold. Currently the US Forest Service (USFS) holds title to the department's helicopters. This is because to procure aircraft through federal surplus, the department must have a federal sponsoring agency. The sponsoring agency, in this case the USFS, holds the title to the equipment. For the state to obtain title, federal legislation must be passed. The amount that would have to be paid to the USFS is dependent upon that federal legislation. If the federal legislation does not pass or if it passes and does not require the entire \$1.0 million, the department would use the authority to reduce the amount of aged equipment in the field by building more wild land fire engines. If approved, the issue for the legislature is to determine which activity should be priority. The legislature may wish to utilize language in HB 2 or a companion bill to prioritize the activities.

DP 3504 - On-Going General Fund Support for Fire Fighting - The executive recommends an annual appropriation of \$5.0 million to support the cost of wildfire suppression in Montana. This appropriation is contingent on the passage and approval of LC 545. LC 545 would create a state special revenue fund for wildfire suppression.

**LFD
COMMENT**

See agency discussion for information regarding the proposed suppression fund.

DP 3530 - NELO Land Use Specialist - The executive requests state special revenue authority and 1.00 FTE for the minerals management program. This individual would coordinate and review of oil and gas lease sale nominations for pre-leasing stipulations, issue seismic permits for exploration, analysis and review of oil and gas developments, resolve conflicts between surface and subsurface state land uses, and monitor current lessees for oil and gas compliance.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: Due to the surge in oil and natural gas prices, the exploration and development of the state land mineral estate has increased dramatically. Over the past five years the mineral management workload has significantly increased which warrants the FTE. Extensive oil and gas leasing has occurred in large blocks of state ownership that will require coordination of state surface and subsurface use. Due to large blocks of ownership, ancillary infrastructures required to support minerals development will be a significant component. This trend of increased workload is being witnessed in other areas/units across the state. The position will be made available to other areas/units on a case-by-case basis to assist with workload issues and increase trust revenues.

Goal: The purpose of this proposal is to develop state minerals for the state trust land beneficiaries while maintaining the long-term productivity of the land for surface uses.

Performance Criteria: This position would report to the Glasgow unit manager, who would be charged with monitoring the accomplishment of mineral program objectives. Oil and gas lease exploration and development activities are accounted on a quarterly basis by the Minerals Management Bureau. The workload associated with this FTE request has already occurred and is expected to increase as a result of recent increase in lease sale activity. .

Milestones: Quarterly oil and gas lease sales, annual oil and gas revenue amounts.

FTE: FTE will be hired by July 1, 2007. It may be difficult to compete with salary levels paid by private oil and gas companies.

Funding: Trust Land Administration Fund

Obstacles: None

Risk: The risk of not securing an FTE for oil and gas development will be the loss of revenue due to delays in the processing of exploration and development permits and potential environmental degradation due to lack of proper project analysis and lease compliance monitoring.

LFD ISSUE

Return on Investment

This position is an investment in the Minerals Management Program. This program is required by law to generate revenues for the beneficiaries. The proposal does not provide any measurable criteria to determine the success of this additional position at some time in the future. The issue for the legislature to consider is whether this position will provide financial return to the trust or be a drain on revenues.

The department does not identify any obstacles. However, from the provided information it can be determined that hiring could be an issue. The department should have a contingency plan in place if the program is unable to hire this individual in a timely manner.

The legislature may wish to:

- Obtain information regarding the current delays in processing to determine workload
- Establish performance criteria for the new FTE
- Require a recruitment plan for the FTE

DP 3533 - Habitat Conservation Plan (HCP) Implem & Monit - The executive requests state special revenue for contracted services, and operating expenses, and to develop training workshops to implement and meet annual and five-year monitoring commitments for the Forest Management Habitat Conservation Plan (HCP). The purpose of the HCP is to develop a negotiated set of conservation strategies that provide longer-term management flexibility and regulatory assurances under the Endangered Species Act.

DP 3535 - Land Exchange Reimbursement - The executive requests state special revenue to enable DNRC to collect anticipated land exchange costs from the applicant, hire and pay the contractors (surveyors, appraisers, etc.), and reimburse the applicant for any unspent monies. Currently, land exchange applicants pay these costs directly to contractors.

DP 3542 - Reliance Refinery Remediation-BIE/OTO - The executive requests \$1.0 million of state special revenue authority for the state's share of anticipated site remediation costs at the Reliance Refinery superfund site located in Kalispell, Montana. Per the settlement agreement, the state is responsible for 27.5 percent of invoiced costs after January 1, 2005.

The following information is provided so that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: Reliance Refinery is part of a state Superfund (CECRA) site under the regulatory authority of the Montana Department of Environmental Quality (DEQ). The department negotiated a consent decree with DEQ acknowledging the state's partial liability for site remediation and indemnifying the state from cross-claim litigation from other potentially liable parties. That consent decree was approved by the Montana First Judicial District Court. It requires the State of Montana to fund the state's proportionate share of the costs of site remediation. The share was established at 27.5 percent.

Goals: The primary goal is remediation of the site as required by CECRA. The secondary goal, relative to the state's ownership, is returning the state land to an appropriate productive use.

Performance Criteria: DEQ will evaluate the alternative remediation methods, select the remediation option that optimally meets the goals and objectives for remediation under CECRA, and produce a record of decision (ROD). This in turn provides the basis upon which to prepare a detailed site remediation plan, and solicit bid proposals for the selected remediation plan. Progress is dependent on DEQ's ability to complete these tasks, either on their own or in conjunction with potentially liable parties.

Milestones: DEQ estimates these project tasks will be complete or nearly complete by the end of FY 2009.

FTE: The work will be performed by DEQ and their contractors.

Funding: DEQ invoices liable parties for their costs, unless same are covered by other direct sources of funding. The department's settlement agreement with DEQ resulted in a negotiated settlement of \$126,890 for the State's share of costs invoiced through December 31, 2004. The department has already paid \$50,000 of this obligation.

Obstacles: As the regulator of state Superfund sites under CECRA, DEQ faces the technical challenge of selecting a final remediation alternative. The consent decree entered into between the department and DEQ resolves the state's share of liability. One other potentially liable party entered into a consent decree with DEQ. Other potentially liable parties have not settled, and litigation between liable parties and DEQ is ongoing.

Risk: The State of Montana is obligated to cover its share of costs associated with remediation of this CECRA site. If the state fails to meet that obligation, the DEQ, as regulator of the CECRA program, could seek to void the court-approved settlement agreement with DNRC. The state would ultimately still be responsible for its share of site remediation, but would also incur the cost of defending itself in further litigation, including cross-claims for liability brought against the

state by other potentially liable parties. Any delay in DEQ's ability to proceed with the steps required for site remediation obviously delays the completion of that remediation. DEQ, pursuant to its CECRA authority, considers the site to pose a threat to the public health, safety, and welfare and to the environment.

**LFD
ISSUE**
Funding Source

This proposal is funded with reclamation and development dollars, which is an RIT related account (see agency discussion for additional information on RIT). Other funding options could be considered. The state required this property under a lien foreclosure for delinquent oil taxes in 1934. The property was leased for refinery and storage operations until 1971 when contamination was discovered. Since this is sovereign state land, all revenue generated from the property went to the general fund. The legislature may wish to consider funding this package from the general fund as the general fund benefited from the activities over time. In addition, if the land is remediated and re-leased, the revenues would be deposited to the general fund.

DP 3549 - Woody Biomass Utilization Program - OTO - The executive requests one-time-only general fund to continue and enhance the Woody Biomass Utilization Program, also referred to as Fuels for Schools program. The program facilitates and promotes the beneficial use of woody biomass "waste" from forest treatments.

**LFD
ISSUE**
Replacement of Federal Funds

This is a one-time infusion of cash. The program has been supported in the past with federal funds. The program is slated for elimination by the Bush administration. This funding does not guarantee the continuation of the program past the 2009 biennium. The legislature may wish to:

- Remove the OTO restriction for continued funding for the program
- Use language in HB 2 to reduce the appropriation level if federal funds continue

Language

"The department is authorized to decrease state special revenue in the Trust Land Administration Division and increase general fund by a like amount when the amount of the administration costs of the Montana State University-Morrill Grant becomes known."

Proprietary Rates**Proprietary Program Description***Air Operations Program***Proprietary Program Description**

The air operations program in the Forestry Division is funded from the air operations proprietary account for those costs that can be supported by the aircraft rates charged for the use of the aircraft and general fund and fire protection tax revenue for fixed costs. The program operates six medium helicopters, one light helicopter, and three single engine fixed-wing airplanes. Aircraft are primarily used for fire detection, support and suppression of wildfires, and reclamation work in the Department of Environmental Quality. Fixed costs are paid by the General Fund and the Fire Protection Tax revenues since they must be paid regardless of the number of hours flown. These costs include hangar rent, insurance and personnel costs. The general fund and fire protection taxes are appropriated by the legislature and transferred to and spent from the proprietary account. Variable costs that are dependent on the hours flown, such as fuel and maintenance, are recovered through an hourly rate charged to all users of the aircraft. Users of the aircraft include DNRC, other state agencies, federal agencies and the state's wildfire suppression efforts. This revenue is also deposited in the proprietary account.

Proprietary Revenues and Expenses

The primary source of revenue is in the collection of aircraft rental charges. Additional transfer-In revenue is received from HB2 transfers of fixed costs (FTE, insurance & rent) from the general fund and the fire protection tax revenues. The department has limited cooperative agreements to assist our federal partners (U.S. Forest Service) with fire protection. The department also has agreements with other state agencies for non-fire related aircraft rental services. The customers served are comprised primarily of state land managers for the DNRC. This involves initial attack of fires under state direct protection and federal and state agencies. Historic and projected trends are dependent on length and severity of the fire season.

The cost drivers for the aircraft rates are to try and recover the actual expenses needed to maintain the aircraft in an air worthy condition and remain mission ready for the purpose of initial attack on wild fires on state and federal ground. This includes all costs associated with the maintenance and operation of that aircraft. There are some factors that contribute to the uncertainty in forecasting future expenses. This includes unforeseen events such as FAA and manufacturer directives, aircraft incidents resulting in unplanned maintenance and fluctuations in fuel and parts, and length and severity of the fire season. Average fire season and routine maintenance of aircraft are used to determine the anticipated future costs of major cost drivers. In FY 2006, non-typical expenditures were incurred in the building of a new helicopter (\$200,000).

Charges for services do not support any FTE for the aviation section. All FTE (12.26) are supported by the general fund and fire protection tax transfers-in.

Proprietary Rate Explanation

The reimbursement rates for the operation of the department aircraft are based on the time life of 5,000 hours of aircraft usage. The rate has been determined to maintain the aircraft in its original condition. At the end of 5,000 hours, all parts should have been replaced and a new maintenance / operation cycle started.

Specific services

The section provides aircraft services and charges for reimbursement by hours and tenths of hours at the following rates

\$1,075.00	Bell UH-1/H Helicopters
\$475.00	Jet Ranger Helicopter
\$150.00	Cessna 180 Series Aircraft

*Tree Nursery***Proprietary Program Description**

The Montana Conservation Seedling Nursery produces and distributes seedlings for conservation plantings including applications such as fire and logging reforestation, farmstead windbreaks, shelterbelts, wildlife habitat, and stream stabilization, as well as other conservation uses. The program mission is to produce the highest quality, locally-adapted, source-identified seedlings available for conservation practices in Montana and to ensure affordable seedlings are available to Montana landowners. The nursery grows an average of one million seedlings annually on 110 acres of state land and in 9,000 square feet of greenhouse space. Sixty-seven plant species are currently in production. Eight hundred ninety-five landowners purchased seedlings in FY 2006. The nursery program is funded solely from the nursery proprietary account. No general fund or federal dollars are used in the program.

Proprietary Revenues and Expenses

The primary source of revenue is seedling sales. Other revenue sources are such services as seed collection, cleaning, and storage and the sale of products for seedling care and protection. The customer base for nursery products and services is comprised of private landowners in Montana, the DNRC Trust Land Management Division, the Department of Fish, Wildlife and Parks, the Conservation Reserve Program (CRP), tribal agencies, the Wildlife Habitat Incentives Program (WHIP), Pheasants Forever, and numerous other conservation programs and organizations. Historic and projected trends in nursery revenue are dependent on conservation activity in the state, landowner access to cost-share dollars for implementation of conservation projects, and long-term seedling production contracts from large scale conservation activities. Revenue potential is also dependent on the number of seedlings available for sale each fiscal year. Sales are predicted two to three years in advance due to the two- to three-year production time needed for each seedling type. This can lead to seedling shortages or surpluses when unforeseen events such as extended drought or extreme fire seasons alter demand for seedlings.

The determining factors that set seedling prices are the actual fixed and variable costs of producing the seedlings. Market pressures from other out-of-state seedling producers can also influence prices. Prices are set to recover all program costs and to increase the year-end carryover balance. Year-end carryover dollars are used for non-typical expenses such as large equipment replacement, or for unforeseen expenses such as weather-related crop losses. Since the nursery is funded primarily by seedling sales, personal services, operating and capital equipment costs are included when setting prices.

Proprietary Rate Explanation

The price of each seedling type is set at the end of the previous fiscal year. Prices are based on the actual production costs for each seedling type. The variables involved in seedling production include seedling stock type (bare root vs. container), seed cost, propagation difficulty, cull rates, seedling age class, quantity produced, equipment costs, labor costs, and overhead charges. Given these variables, each of the 125-plus seedling types can have a different price, and the price must be adjusted annually to account for changes in fixed and variable costs.

2009 Biennium Report on Internal Service and Enterprise Funds						
Fund 06538	Fund Name Air Operation Internal Service	Agency # 57060	Agency Name Department of Natural Resources and Conservation		Program Name Forestry/Trust Lands Division	
	Actual FY04	Actual FY05	Actual FY06	Budgeted FY07	Budgeted FY08	Budgeted FY09
Operating Revenues:						
Fee revenue						
Subsequent Injury Fund Assessment	-	-	-	-	-	-
Revenue from Bell UH-1Hs	403,550	218,312	498,108	600,000	1,075,000	1,075,000
Revenue from Bell Jet Rangers	120,771	69,397	53,360	10,000	95,000	95,000
Revenue from Cessna 180 Series	94,264	51,462	54,112	50,000	78,750	78,750
Net Fee Revenue	618,585	339,171	605,580	660,000	1,248,750	1,248,750
Investment Earnings	-	-	-	-	-	-
Securities Lending Income	-	-	-	-	-	-
Premiums	-	-	-	-	-	-
Other Operating Revenues	412	319	593	-	-	-
Total Operating Revenue	618,997	339,490	606,173	660,000	1,248,750	1,248,750
Operating Expenses:						
Personal Services	365,116	413,440	664,484	714,824	794,574	797,767
Other Operating Expenses	748,434	523,952	876,110	783,894	885,150	899,506
Total Operating Expenses	1,113,550	937,392	1,540,594	1,498,718	1,679,724	1,697,273
Operating Income (Loss)	(494,553)	(597,902)	(934,421)	(838,718)	(430,974)	(448,523)
Nonoperating Revenues (Expenses):						
Gain (Loss) Sale of Fixed Assets	-	(523)	-	-	-	-
Federal Indirect Cost Recoveries	-	-	-	-	-	-
Other Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Net Nonoperating Revenues (Expenses)	-	(523)	-	-	-	-
Income (Loss) Before Operating Transfers	(494,553)	(598,425)	(934,421)	(838,718)	(430,974)	(448,523)
Contributed Capital	-	-	-	-	-	-
Operating Transfers In (Note 13)	436,118	585,705	1,009,421	1,000,000	824,421	825,921
Operating Transfers Out (Note 13)	-	-	-	-	-	-
Change in net assets	(58,435)	(12,720)	75,000	161,282	393,447	377,398
Total Net Assets- July 1 - As Restated	157,460	99,025	86,305	175,089	336,371	729,818
Prior Period Adjustments	-	-	13,784	-	-	-
Cumulative effect of account change	-	-	-	-	-	-
Total Net Assets - July 1 - As Restated	157,460	99,025	100,089	175,089	336,371	729,818
Net Assets- June 30	99,025	86,305	175,089	336,371	729,818	1,107,216
60 days of expenses (Total Operating Expenses divided by 6)	185,592	156,232	256,766	249,786	279,954	282,879
Requested Rates for Internal Service Funds						
Fee/Rate Information for Legislative Action						
	Actual FYE 04	Actual FY 05	Actual FY 06	Budgeted FY 07	Budgeted FY 08	Budgeted FY 09
Fee Group A						
Bell UH-1H Helicopter	875.00	875.00	875.00	875.00	1,075.00	1,075.00
Bell Jet Ranger Helicopter	355.00	355.00	355.00	355.00	475.00	475.00
Cessna 180 Fixed Wing	95.00	95.00	95.00	95.00	150.00	150.00

2009 Biennium Report on Internal Service and Enterprise Funds						
Fund 06003	Fund Name State Nursery Enterprise Fund	Agency # 57060	Agency Name Department of Natural Resources and Conservation	Program Name Forestry/Trust Lands Division		
	Actual FY04	Actual FY05	Actual FY06	Budgeted FY07	Budgeted FY08	Budgeted FY09
Operating Revenues:						
Fee revenue						
Subsequent Injury Fund Assessment	-	-	-	-	-	-
Revenue from Nursery Sales	-	-	379,623	467,053	437,000	478,500
Revenue from Nursery Services	-	-	2,200	33,600	25,000	27,500
Net Fee Revenue	-	-	381,823	500,653	462,000	506,000
Investment Earnings	-	-	-	-	-	-
Securities Lending Income	-	-	-	-	-	-
Premiums	-	-	-	-	-	-
Other Operating Revenues	-	-	29	-	-	-
Total Operating Revenue	-	-	381,852	500,653	462,000	506,000
Operating Expenses:						
Personal Services	-	-	294,586	360,576	360,265	361,415
Other Operating Expenses	-	-	99,521	127,096	101,024	101,233
Total Operating Expenses	-	-	394,107	487,672	461,289	462,648
Operating Income (Loss)	-	-	(12,255)	12,981	711	43,352
Nonoperating Revenues (Expenses):						
Gain (Loss) Sale of Fixed Assets	-	-	-	-	-	-
Federal Indirect Cost Recoveries	-	-	-	-	-	-
Other Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Net Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Income (Loss) Before Operating Transfers	-	-	(12,255)	12,981	711	43,352
Contributed Capital	-	-	7,119	-	-	-
Operating Transfers In (Note 13)	-	-	17,190	-	-	-
Operating Transfers Out (Note 13)	-	-	(25,080)	-	-	-
Change in net assets	-	-	(13,026)	12,981	711	43,352
Total Net Assets- July 1 - As Restated	-	-	45	(12,981)	(0)	711
Prior Period Adjustments	-	-	-	-	-	-
Cumulative effect of account change	-	-	-	-	-	-
Total Net Assets - July 1 - As Restated	-	-	45	(12,981)	(0)	711
Net Assets- June 30	-	-	(12,981)	(0)	711	44,063
60 days of expenses (Total Operating Expenses divided by 6)	-	-	65,684	81,279	76,882	77,108
Requested Rates for Internal Service Funds						
Fee/Rate Information for Legislative Action						
	Actual FYE 04	Actual FY 05	Actual FY 06	Budgeted FY 07	Budgeted FY 08	Budgeted FY 09
Revenue from Nursery Sales			VARIES*	VARIES*	VARIES*	VARIES*
Revenue from Nursery Services			VARIES*	VARIES*	VARIES*	VARIES*
*Rate Explanation: The price of each seedling type is set at the end of the previous fiscal year. Prices are based on the actual production costs for each seedling type. The variables involved in seedling production include seedling stock type (bareroot vs. container), seed cost, propagation difficulty, cull rates, seedling age class, quantity produced, equipment costs, labor costs, and overhead charges. Given these variables, each of the 125-plus seedling types can have a different price, and the price must be adjusted annually to account for changes in fixed and variable costs.						